

# UTAH STATE BULLETIN

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

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

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

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

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

Office of Administrative Rules, Salt Lake City 84114

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## NOTICES OF PROPOSED RULES

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A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between May 16, 2023, 12:00 a.m., and June 01, 2023, 11:59 p.m. are included in this, the June 15, 2023, 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 July 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 October 13, 2023, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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

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

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

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R35-1	Filing ID: 55397

**Agency Information**

<b>1. Department:</b>	Government Operations	
<b>Agency:</b>	Records Committee	
<b>Street address:</b>	346 S Rio Grande St	
<b>City, state and zip:</b>	Salt Lake City, UT 84101	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Rebekkah Shaw	801-531-3851	rshaw@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

2. Rule or section catchline:
R35-1. State Records Committee Appeal Hearing Procedures
3. Purpose of the new rule or reason for the change:
S.B. 231 from the 2023 General Session added Section 63G-2-209. This new section created an additional mandate for the State Records Committee. The bill also required rules to be created for these new hearings, what is generally referred to as "vexatious requester hearings". These changes are in anticipation of those hearings, along with some grammatical updates to be compliant with the Utah Rulewriting Manual.
4. Summary of the new rule or change:
The catchline for Rule R35-1 is changed for both appeal and vexatious hearings.
A specific change is that all parties at a hearing are sworn in, and the time to present at the hearing is set.
What happens when the Records Committee (Committee) votes in a tie is explained.
The Committee may vote to compel a third-party to attend a hearing.
Various types of motions and orders the Committee may issue are added.
Two new sections are added: R35-1-3, Burden of Proof, and R35-1-4, Vexatious Requester Hearing Procedures. This requires the rest of Rule R35-1 to be renumbered.

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

There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to come into compliance with Section 63G-2-209. All other changes are to clarify current practice.

**B) Local governments:**

There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to come into compliance with Section 63G-2-209. All other changes are to clarify current practice.

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

There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to come into compliance with Section 63G-2-209. All other changes are to clarify current practice.

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

There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to come into compliance with Section 63G-2-209. All other changes are to clarify current practice.

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

There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to come into compliance with Section 63G-2-209. All other changes are to clarify current practice.

**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 substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to come into compliance with Section 63G-2-209. All other changes are to clarify current practice.

**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	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Deputy Director of the Department of Government Operations, Christopher Hughes, has reviewed and approved this regulatory impact analysis.			

**Citation Information**

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Subsection 63G-2-209(12)		

**Public Notice Information**

<b>8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)</b>	
<b>A) Comments will be accepted until:</b>	07/17/2023

<b>9. This rule change MAY become effective on:</b>	07/25/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Kenneth Williams, Director and State Archivist	<b>Date:</b>	05/08/2023
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**R35. Government Operations, Records Committee.****R35-1. State Records Committee [Appeal]Hearing Procedures.****R35-1-1. Scheduling Committee Meetings.**

(1) The Executive Secretary shall respond in writing to the notice of appeal within seven business days.

(2) Two weeks ~~[prior to]~~before the Committee meeting or appeal hearing, the Executive Secretary shall post a notice of the meeting on the Utah Public Notice Website.

(3) The Executive Secretary sets the agenda for the meeting. If the Committee Chair determines necessary, the Executive Secretary may postpone appeals to the next available meeting.

~~[(3) One week prior to the Committee meeting or appeal hearing, the Executive Secretary shall post a notice of the meeting, indicating the agenda, date, time, and place of the meeting at the building where the meeting is to be held and at the Utah State Archives.]~~

**R35-1-2. Procedures for Appeal Hearings.**

(1) The meeting shall be called to order by the Committee Chair.

(2) The Committee Chair shall swear in the parties.

(3) The petitioner and respondent are allowed up to 15 minutes to present their case. Either party may request more time from the Chair at the hearing.

(a) The petitioner's case may consist of testimony, argument, relevant evidence, and any relevant witnesses.

~~[(2) Testimony shall be presented by the petitioner and the governmental entity. Presentations shall be limited to records access issues and alleged unreasonable denials of requests for fee waivers. Each party shall be allowed twenty minutes to present testimony and evidence, to call witnesses, and to respond to questions from Committee members.]~~

~~(b)(3)~~ Witnesses providing testimony shall be sworn in by the Committee Chair.

~~(c)(4)~~ Questioning of the witnesses and parties by Committee members is permitted.

(4)(a)(5) If the appeal involves proper classification of a record, the~~The~~ governmental entity must bring the disputed records to the hearing to allow the Committee to view records in camera if it deems an in camera inspection necessary pursuant to 63G-2-403(9).

~~(b)(a)~~ If the records withheld are voluminous or the governmental entity contends they have not been identified with reasonable specificity, the governmental entity shall notify the Committee via the Executive Secretary ~~[and the adverse party]~~ at least ~~seven~~two days before the hearing and obtain approval from the Committee Chair to bring a representative sample of the potentially responsive records to the hearing, if it is possible to do so.

~~(c)(b)~~ Records provided by the governmental entity for in camera review by the Committee remain in the custody of the governmental entity. Records for in camera review are retained by the Committee for only the period of in camera review and ~~[all records]~~ are returned to the governmental entity or destroyed, provided they are not the record copy, at the conclusion of the in camera review.

~~(5)(6)~~ Third party presentations may be permitted. No later than three days before~~[Prior to]~~ the hearing, the third party shall notify the Executive Secretary of their intent to present. Third party presentations ~~are~~shall be limited to three~~[five]~~ minutes, and ~~will~~must be presented ~~[prior to]~~before closing arguments.

~~(6)(7)~~ Closing arguments may be presented by the petitioner and the governmental entity. Each party shall be allowed up to five minutes to present a closing argument and make rebuttal statements.

~~(7)(a)(8)~~ After the conclusion of the closing arguments~~[presentation of the evidence]~~, the Committee shall ~~[commence]~~start deliberations. A Committee Member shall make a motion described in the list under R35-1-5(1).~~[to grant or to deny the petitioner's request in whole or in part. Following discussion of the motion, the Committee Chair shall call for the question. The motion shall serve as the basis for the Committee Decision and Order.]~~ The Committee shall vote and make public the decision of the Committee during the hearing.

~~(b)~~ In the event of a tie vote, the Committee Chair shall ask if the Committee wishes to continue deliberation. If so, deliberation continues and another motion may be made. If the Committee decides not to continue deliberations, the Chair may withdraw their vote to break the tie.

~~(8)(9)~~ At any time, the~~[The]~~ Committee may adjourn, reschedule, continue, or reopen a hearing on the motion of a member.

~~(9)(10)~~ Except as expressly authorized by law, there shall be no communication between the parties and the members of the Committee concerning the subject matter of the appeal before the hearing or ~~[prior to]~~before the issuance of an ~~[final Decision And]~~ Order. Any other oral or written communication from the parties to the members of the Committee, or from the members of the Committee to the parties, shall be directed to the Executive Secretary for transmittal.

~~(10)(11)~~ The following provisions govern any meeting at which one or more members of the Committee or a party appears telephonically or electronically, pursuant to Section 52-4-207.

(a) The anchor location is the physical location from which the electronic meeting originates as indicated on the notice.~~[or from which the participants are connected. The anchor location, unless otherwise designated in the notice, shall be at the offices of the Division of State Archives, Salt Lake City, Utah.]~~

(b) Public notices of the meeting shall show ~~if~~if one or more Committee members or parties may be participating electronically or telephonically~~[; public notices of the meeting shall so indicate]~~. In addition, the notice shall specify the anchor location where the members of the Committee not participating electronically or telephonically will be meeting and where interested persons and the public may attend and monitor the open portions of the meeting.

(c) When notice is given of the possibility of a member of the Committee appearing electronically or telephonically, any member of the Committee may do so and shall be counted as present for purposes of a quorum and may fully participate and vote on any matter coming before the Committee. At the commencement of the meeting, or at such time as any member of the Committee initially appears electronically or telephonically, the Committee Chair shall

identify for the record each of those who are appearing telephonically or electronically. ~~[Votes by members of the Committee who are not at the physical location of the meeting shall be confirmed by the Committee Chair.]~~When conducting a meeting with any Board members participating telephonically or electronically, the Committee Chair will take votes by roll call.

~~(11)(12)~~(a) Pursuant to Subsection 63G-2-401(5)(c) a petitioner may request a postponement of a hearing, with the consensus of the governmental entity. If the petitioner wishes to postpone the hearing or withdraw the appeal, the petitioner shall notify the Committee via the Executive Secretary and the governmental entity in writing no later than five days ~~[prior to]~~before the scheduled hearing date.

(b) The Committee Chair has the discretion to grant or deny a petitioner's request to postpone a hearing based upon: (i) the reasons given by the petitioner in ~~[his or her]~~the request, (ii) the timeliness of the request, (iii) whether petitioner has previously requested and received a postponement, (iv) any other factor determined to protect the equitable interests of the parties. If the request is granted, the Chair shall instruct the Executive Secretary to schedule the appeal for the next available hearing date pursuant to 63G-2-403(4)(a).

(c) The Chair will ordinarily deny a governmental entity's request to postpone the hearing, unless the governmental entity has obtained the petitioner's prior consent to reschedule the hearing date.

~~(12)~~ If the Committee determines at any time before, or during a hearing, that a necessary third party must either be added as a party to the appeal or otherwise be present or testify, the Committee may vote to continue the hearing to a later date, if necessary, and compel the third-party's attendance by way of a subpoena.

~~(13)~~ Nothing in this section precludes the Committee Chair from taking appropriate measures necessary to maintain the order and integrity of the hearing.

### **R35-1-3. Burden of Proof.**

~~(1)~~ In cases where the appeal concerns whether the governmental entity possesses or maintains the requested records, the governmental entity must show by a preponderance of the evidence that its search for the requested records was reasonable.

~~(2)~~ Upon the governmental entity establishing by a preponderance of the evidence that its search was reasonable, the burden of proof shifts to the petitioner who must show by clear and convincing evidence that the requested records are possessed or maintained by the respondent.

~~(3)~~ In hearings concerning whether a person is a vexatious requester, the governmental entity must show by clear and convincing evidence that the person is a vexatious requester as outlined in Section 63G-2-209(9).

### **R35-1-4. Vexatious Requester Hearing Procedures.**

~~(1)~~ When hearing a petition to declare a person a vexatious requester, the Committee shall hold the hearing in accordance with Section R35-1-2

~~(2)~~ If at any time the Committee determines that the matter being heard involves issues outlined in Section 52-4-205(1), then the Committee may move to close the hearing to the public.

### **R35-1-5[3]. Issuing the Committee Decision and Order.**

~~(1)~~ The Committee may issue Orders based on the following motions:

(a) grant the petitioner's appeal in whole or in part;

(b) deny the petitioner's appeal in whole or in part;

(c) dismiss the petitioner's appeal;  
(d) continue the hearing to a later date;  
(e) default against a non-attending, non-participating, or otherwise non-compliant party;  
(f) fines for a party's non-compliance with Section 63G-2 et. Seq., this R35-1- et seq., or the Committee's requests;  
(g) compelling the attendance and testimony of third parties;  
(h) deny or allow a vexatious requester hearing;  
(i) declaring whether a person is a vexatious requester in accordance with 63G-2-209(8); or  
(j) -another Order the Committee deems appropriate for the circumstances.  
(2) A fine under this subsection (1)(g) may not exceed \$3,000.

(3) The Committee may collaboratively draft its order privately after the hearing.

(4) In its collaborative private drafting, the Committee may revise and refine its reasoning to include legal authority, analysis, relevant facts, and other considerations not actually voiced in public deliberation.

(5)(+) The [Decision and] Order must[shall] be signed by the Committee Chair and distributed by the Executive Secretary within seven business days after the hearing. Copies of each [Decision and O]rder shall be distributed to the petitioner, the governmental entity and other interested parties. The original [e]Order shall be maintained by the Executive Secretary. A copy of the [e]Order shall be made available for public access at the Utah State Archives website.

(6) Before either party appeals an Order pursuant to 63G-2-404, the Committee may withdraw its Order by delivering notice to the parties of the withdrawal. Upon the withdrawal, the Executive Secretary shall add the withdrawn Order to the agenda of the next regularly scheduled public Committee meeting.

#### **R35-1-6[4]. Committee Minutes.**

(1) Purpose. Section 52-4-203 requires any public body to establish and implement procedures for the public body's approval of the written minutes of each meeting. This rule establishes procedures for the State Records Committee to approve the written minutes of each meeting.

(2) Authority. This rule is enacted under the authority of Sections 52-4-203, 63G-3-201, and 63A-12 Division of Archives and Records Service.

(3) Meetings of the Committee shall be recorded. The recording of the open meeting shall be made available to the public within three business days. Access to the audio recordings shall be provided by the Executive Secretary on the Utah Public Notice Website.

(4)(a) Approved written minutes shall be the official record of the meetings and appeal hearings and shall be maintained by the Executive Secretary.

(b)(+) Written minutes shall be read by members before[prior to] the next scheduled meeting, including electronic meetings.

(c)(+) Written minutes from meetings shall be made available no later than one week before[prior to] the date of the next regularly scheduled Committee meeting.

(d)(+) When minutes are complete but awaiting official approval, they are a public record and must be marked as "Draft."

(e)(+) At the next meeting, at the direction of the Committee Chair, minutes shall be amended [and] or approved with

individual votes recorded in the minutes. The minutes shall be then marked as "Approved."

(f)(+) When the minutes are "Approved" they will be [se] noted in the printed and online versions. A copy of the approved minutes shall be made available for public access on the Utah Public Notice Website.

**KEY: government documents, state records committee, records appeal hearings, vexatious requester hearings**

**Date of Last Change: [September 8, 2021]2023**

**Notice of Continuation: June 3, 2019**

**Authorizing, and Implemented or Interpreted Law: 63G-2-401(5)(c); 63G-2-403(9); 63G-2-403(4)(a); 63G-2-201; 63A-12-101; 52-4-203**

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

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R35-1a</b>	<b>Filing ID:</b> <b>55398</b>
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#### **Agency Information**

<b>1. Department:</b>	Government Operations	
<b>Agency:</b>	Records Committee	
<b>Street address:</b>	346 S Rio Grande St	
<b>City, state and zip:</b>	Salt Lake City, UT 84101	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Rebekkah Shaw	801-531-3851	rshaw@utah.gov

**Please address questions regarding information on this notice to the persons listed above.**

#### **General Information**

<b>2. Rule or section catchline:</b>
R35-1a. State Records Committee Definitions
<b>3. Purpose of the new rule or reason for the change:</b>
The purpose of this filing is to make changes in compliance with the Utah Rulewriting Manual and clarify when a governmental entity may make comments to the State Records Committee (Committee) if no notice of compliance has been provided.
<b>4. Summary of the new rule or change:</b>
The change clarifies when an entity may make comments if no notice of compliance has been sent to the Committee.

#### **Fiscal Information**

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

<b>A) State budget:</b>			
There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to be in line with current practice.			
<b>B) Local governments:</b>			
There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to be in line with current practice.			
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):			
There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to be in line with current practice.			
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):			
There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to be in line with current practice.			
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):			
There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to be in line with current practice.			
<b>F) Compliance costs for affected persons</b> (How much will it cost an impacted entity to adhere to this rule or its changes?):			
There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to be in line with current practice.			
<b>G) Regulatory Impact Summary Table</b> (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Deputy Director of the Department of Government Operations, Christopher Hughes, has reviewed and approved this regulatory impact analysis.			

#### Citation Information

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Subsection 63G-2-209(12)		

#### Public Notice Information

<b>8. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
<b>A) Comments will be accepted until:</b>	07/17/2023

<b>9. This rule change MAY become effective on:</b>	07/25/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

#### Agency Authorization Information

<b>Agency head or designee and title:</b>	Kenneth Williams, Director and State Archivist	<b>Date:</b>	05/08/2023
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**R35. Government Operations, Records Committee.****R35-1a. State Records Committee Definitions.****R35-1a-1. Definitions.**

In addition to terms defined in Section 63G-2-103[~~Utah Code~~], the following terms apply to this rule:

(a) "Committee" means the State Records Committee in accordance with Section 63G-2-501[~~Utah Code~~].

(b) "Denial" means an act taken to restrict access to a government record in accordance with Section 63G-2-205 and Subsection 63G-2-403(4)[~~Utah Code~~].

(c) "Executive Secretary" means the individual appointed annually as required in Subsection 63G-2-502(3)[~~Utah Code~~].

(d) "Expedited Hearing" means a meeting by the Committee to review a designation of records by a government entity in a shorter time period than in accordance with Subsection 62G-2-209(3)(a)(ii) or Subsection 63G-2-403(4)(a).

(e) "Hearing" means a meeting by the Committee to hear an appeal of a records decision by a government entity in accordance with Section 63G-2-403[~~Utah Code~~].

(f) "Order" means the Decision and Order issued by the State Records Committee as provided by Subsection 63G-2-403(11)[~~Utah Code~~].

(g) "Subpoena" means a written Order[~~order~~] requiring appearance before the State Records Committee to give testimony in accordance with [Section]Subsections 62G-2-209(7)(c) or 63G-2-403(10)(a)[~~Utah Code~~].

**KEY:** state records committee, records appeal hearings, government documents, vexatious requester hearings

Date of Last Change: [September 9, 2014]2023

Notice of Continuation: June 3, 2019

Authorizing, and Implemented or Interpreted Law: 63G-2-502(2)(a)

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R35-2</b>	<b>Filing ID:</b> <b>55399</b>
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**Agency Information**

<b>1. Department:</b>	Government Operations	
<b>Agency:</b>	Records Committee	
<b>Street address:</b>	346 S Rio Grande St	
<b>City, state and zip:</b>	Salt Lake City, UT 84101	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Rebekkah Shaw	801-531-3851	rshaw@utah.gov

**Please address questions regarding information on this notice to the persons listed above.**

**General Information**

<b>2. Rule or section catchline:</b>
R35-2. Declining Appeal Hearings

**3. Purpose of the new rule or reason for the change:**

S.B. 231 from the 2023 General Session added Section 63G-2-209. This new section created an additional mandate for the State Records Committee.

The bill also required rules to be created for these new hearings, what is generally referred to as "vexatious requester hearings". These changes are in anticipation of those hearings, along with some grammatical updates to be compliant with the Utah Rulewriting Manual.

**4. Summary of the new rule or change:**

The rule and section catchlines (titles) are updated to clarify which sections are for record access appeals and which ones are for vexatious requester hearings.

The changes include a page limit for record access appeals.

A new section is added: R35-2-3, Scheduling and Declining Requests for Vexatious Requester Hearings. This section clarifies what should be included for an appeal to be complete and how appeals may be denied.

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

There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to come into compliance with Section 63G-2-209. All other changes are to clarify current practice.

**B) Local governments:**

There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to come into compliance with Section 63G-2-209. All other changes are to clarify current practice.

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

There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to come into compliance with Section 63G-2-209. All other changes are to clarify current practice.

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

There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to come into compliance with Section 63G-2-209. All other changes are to clarify current practice.

**E) Persons other than small businesses, non-small businesses, state, or local government entities**



("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to come into compliance with Section 63G-2-209. All other changes are to clarify current practice.

**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 substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to come into compliance with Section 63G-2-209. All other changes are to clarify current practice.

**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	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Deputy Director of the Department of Government Operations, Christopher Hughes, 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 63G-2-209(12)	Subsection 63G-2-403(4)(b)(ii)(B)	
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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:** 07/17/2023

**9. This rule change MAY become effective on:** 07/25/2023

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Kenneth Williams, Director and State Archivist	<b>Date:</b>	05/08/2023
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**R35. Government Operations, Records Committee.**

**R35-2. Scheduling and Declining [Appeal] Hearings.**

**R35-2-1. Authority and Purpose.**

In accordance with Section 63G-2-502, Section 63G-2-209, and Subsection 63G-2-403(4), [Utah Code,] this rule establishes the procedure declining to schedule hearings by the Executive Secretary of the State Records Committee.

**R35-2-2. Scheduling and Declining Requests for Appeal Hearings.**

(1) [In order to] To decline a request for a hearing under Subsection 63G-2-403(4), the Executive Secretary shall consult with the Committee Chair and at least one other member of the Committee.

(a) The Committee Chair and one other member of the Committee must both agree with the Executive Secretary's recommendation to decline to schedule a hearing. Such a decision shall consider the potential for a public interest claim as may be put forward by the petitioner under [the provisions of] Subsection 63G-2-403(11)(b). [A copy of each decision to decline a hearing shall be retained in the file.]

(b) The Executive Secretary's notice to the petitioner indicating that the request for a hearing has been declined, as provided for in Subsection 63G-2-403(4)(b)(ii)(A), shall include a

copy of the previous ~~Order~~~~[order]~~ of the Committee holding that the records at issue are appropriately classified.

(2)(a) In any appeal to the Committee of a governmental entity's denial of access to records ~~[for the reason that]~~~~because~~ the record is not maintained by the governmental entity, the petitioner shall provide sufficient evidence in the petitioner's statement of facts, reasons, and legal authority in support of the appeal, that the record was maintained by the governmental entity at one time, or that the governmental entity has concealed, or has not sufficiently or has improperly searched for the record.

(b) The Committee Chair shall determine whether or not the petitioner has provided sufficient evidence.

(c) If the Committee Chair determines that sufficient evidence has been provided, the Chair shall direct the Executive Secretary to schedule a hearing ~~[as otherwise provided in these rules]~~.

(d) If the Committee Chair determines that sufficient evidence has not been provided, the Chair shall direct the Executive Secretary to not schedule a hearing and to inform the petitioner of the determination.

(e) Evidence that a governmental entity has disposed of the record according to retention schedules is sufficient basis for the Chair to direct the Executive Secretary to not schedule a hearing.

(3) ~~[In order to]~~To file an appeal, the petitioner must submit the following:

(a) a copy of ~~[his or her]~~the petitioner's initial records request, or a statement of the specific records requested if a copy is unavailable to the petitioner;

(b) a copy of any records appeals;

(c) a copy of the final responses from the respondents containing their decisions regarding the records request and appeals;

(d) and a statement of relief sought.

(4)(a) If any of ~~[the above]~~the documents under R35-2-2(3) have not been provided, the Executive Secretary shall notify the petitioner that a hearing cannot be scheduled until the proper information is submitted.

(b) The petitioner must provide the missing information within seven days of receipt of the notice in order for the notice of appeal to be considered filed pursuant to Subsections 63G-2-403(2) and (4)(a).

(5)(4) An appeal not timely received pursuant to Subsection 63G-2-403(1)(a) will not be scheduled.

(6)(5) An appeal pertaining to the Judiciary, Legislature, or to a political subdivision that has established a local appeals board that has not yet received and addressed the appeal, is not within the Committee's jurisdiction and will not be scheduled pursuant to Title 63G, Chapter 2, Part 7, Applicability to Political Subdivisions, the Judiciary, and the Legislature, and to Subsection 63G-2-402(1)(b).

(7)(6) If a governmental entity requests to have an appeal dismissed by challenging the ~~[committee's]~~Committee's jurisdiction based on failure of the petitioner to serve notice of appeal to the governmental entity pursuant to Subsection 63G-2-403(3)(a), the ~~[committee]~~Committee shall deny ~~[said]~~the request.

(8)(7) The Executive Secretary shall report on appeals received at each regularly scheduled meeting of the Committee ~~[in order]~~to provide a public record of the actions taken.

(9)(8)(a) If a Committee member has requested a discussion to reconsider the decision to decline or not schedule a hearing, the Committee may, after discussion and by a majority vote, choose to reverse the decision and hold a hearing.

(b) Any discussion of reconsideration shall be limited to those Committee members then present, and shall be based only on the following two questions:

(i) whether the records being requested were covered by a previous ~~Order~~~~[order]~~ of the Committee~~[-]~~; and

(ii) whether the petitioner has, or is likely to, put forth a public interest claim.

(c) Neither the petitioner nor the agency whose records are requested shall be heard at this time.

(d) If the Committee votes to hold a hearing, the Executive Secretary shall schedule it on the agenda of the next regularly scheduled Committee meeting.

(10)(9) The Executive Secretary shall compile and include in an annual report to the Committee a complete documented list of hearings held, withdrawn, and declined.

(11)(a) A brief statement of facts and arguments in support or against the requested relief shall be no longer than 15 pages double-spaced.

(b) The format should adhere to the Utah Rules of Civil Procedure Rule 10(d).

(c) Requests can be made of the Chair to allow a longer statement of facts.

### **R35-2-3. Scheduling and Declining Requests for Vexatious Requester Hearings.**

(1) To decline a request for a hearing under Section 62G-2-209, the Executive Secretary shall consult with the Chair and one other member of the Committee.

(a) The Committee Chair and one other member of the Committee must both agree with the Executive Secretary's recommendation to decline to schedule a hearing.

(b) The Executive Secretary's notice to the petitioner and respondent shall include the reasons for the denial and notify the parties that the Committee will vote to accept or reject the recommendation to deny the petition without a hearing.

(c) Upon notifying the parties of the denial, the Executive Secretary shall add an action item to the next meeting agenda when the Committee will vote to accept or reject the denial.

(2) To request a hearing on whether an individual is a vexatious requester, the governmental entity must submit the following:

(a) the name, phone number, mailing address, and email address of the respondent;

(b) a description of the conduct that the governmental entity claims demonstrates that the respondent is a vexatious requester;

(c) a statement of the relief sought;

(d) a sworn or unsworn declaration; and

(e) verification that a copy of the petition was sent to the respondent.

(f) If any of the R35-2-3(2) have not been provided, the Executive Secretary shall notify the governmental entity that a hearing cannot be scheduled until the proper information is submitted.

**KEY: government documents, state records committee, records appeal hearings, vexatious requester hearings**

**Date of Last Change: ~~[October 16, 2020]~~2023**

**Notice of Continuation: June 3, 2019**

**Authorizing, and Implemented or Interpreted Law: 63G-2-402(1)(b); 63G-2-403(1); 63G-2-403(2); 63G-2-403(3)(a); 63G-2-403(4); 63G-2-403(4)(b)(ii)(A); 63G-2-403(11)(b); 63G-2-502**

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R35-4	Filing ID: 55400

#### Agency Information

1. Department:	Government Operations	
Agency:	Records Committee	
Street address:	346 S Rio Grande St	
City, state and zip:	Salt Lake City, UT 84101	
Contact persons:		
Name:	Phone:	Email:
Rebekkah Shaw	801-531-3851	rshaw@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

#### General Information

2. Rule or section catchline:
R35-4. Compliance with State Records Committee Decisions and Orders
3. Purpose of the new rule or reason for the change:
The purpose of this change is to make changes in compliance with the Utah Rulewriting Manual and clarify when a governmental entity may make comments to the State Records Committee (Committee) if no notice of compliance has been provided.
4. Summary of the new rule or change:
The changes clarify when an entity may make comments if no notice of compliance has been sent to the Committee.

#### Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to be in line with current practice.
B) Local governments:
There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to be in line with current practice.

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

There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to be in line with current practice.

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

There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to be in line with current practice.

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

There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to be in line with current practice.

**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 substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to be in line with current practice.

**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	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0



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

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

The Deputy Director of the Department of Government Operations, Christopher Hughes, 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 63G-2-209(12)		
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**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	07/17/2023
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<b>9. This rule change MAY become effective on:</b>	07/25/2023
---	------------

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Kenneth Williams, Director and State Archivist	<b>Date:</b>	05/08/2023
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**R35. Government Operations, Records Committee.**

**R35-4. Compliance with State Records Committee Decisions and Orders.**

**R35-4-1. Authority and Purpose.**

In accordance with Subsection 63G-2-403(15), this rule intends to establish the procedure for complying with an ~~[order]~~Order of the State Records Committee.

**R35-4-2. Notices of Compliance.**

(1) The Executive Secretary of the Committee shall send an ~~[order]~~Order of the Committee by ~~[certified]~~mail to the petitioner and to the governmental entity ordered to produce records.

(2) Pursuant to Subsection 63G-2-403(15)(a), each governmental entity ordered by the Committee to produce records shall file with the Executive Secretary either a notice of compliance, or a copy of the appellant's notice of intent to appeal the Committee ~~[order]~~Order, no later than the ~~[thirtieth]~~30th day following the date of the Committee ~~[order]~~Order.

(3) The notice of compliance shall contain a statement, signed by the head of the governmental entity, that the records ordered to be produced have been delivered to the petitioner, and shall state the method and date of delivery.

(4) In the event a governmental entity fails to file a notice of compliance or a copy of the appellant's notice of intent to appeal the Committee ~~[order]~~Order within the time frame specified, the Committee shall send written notice of the entity's noncompliance to the governor.

(5)(a) The Committee may also impose a civil penalty of up to \$500 for each day of continuing noncompliance, but only after holding a discussion of the matter at issue, and obtaining a majority vote at a regularly scheduled Committee meeting.

(b) The non-complying governmental entity shall be heard at that meeting if the entity requests to comment, with discussion being limited specifically to reasons for the noncompliance~~[neglectful, willful, or intentional act]~~.

(c) Any civil penalty imposed shall be retroactive to the first date of noncompliance.

**KEY:** government documents, state records committee, records appeal hearings, vexatious requester hearings

Date of Last Change: ~~[August 7, 2020]~~2023

Notice of Continuation: June 3, 2019

Authorizing, and Implemented or Interpreted Law: 63G-2-403(15)

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R35-5</b>	<b>Filing ID:</b> <b>55401</b>
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**Agency Information**

<b>1. Department:</b>	Government Operations	
<b>Agency:</b>	State Records Committee	
<b>Street address:</b>	346 S Rio Grande St	
<b>City, state and zip:</b>	Salt Lake City, UT 84101	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Rebekkah Shaw	801-531-3851	rshaw@utah.gov

**Please address questions regarding information on this notice to the persons listed above.**

## General Information

### 2. Rule or section catchline:

R35-5. Subpoenas Issued by the Records Committee

### 3. Purpose of the new rule or reason for the change:

The purpose of this change is to make changes in compliance with the Utah Rulewriting Manual and clarify when a governmental entity may make comments to the State Records Committee (Committee) if no notice of compliance has been provided.

### 4. Summary of the new rule or change:

The changes clarify when an entity may make comments if no notice of compliance has been sent to the Committee.

## Fiscal Information

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

#### A) State budget:

There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to be in line with current practice.

#### B) Local governments:

There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to be in line with current practice.

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

There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to be in line with current practice.

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

There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to be in line with current practice.

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

There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to be in line with current practice.

#### 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 substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to be in line with current practice.

**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	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Deputy Director of the Department of Government Operations, Christopher Hughes, 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 63G-2-209(12)		
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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:** 07/17/2023

**9. This rule change MAY become effective on:** 07/25/2023

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Kenneth Williams, Director and State Archivist	<b>Date:</b>	05/08/2023
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**R35. Government Operations, Records Committee.  
R35-5. Subpoenas Issued by the Records Committee.**

**R35-5-1. Authority and Purpose.**

In accordance with Section 62G-2-209 and Subsection 63G-2-403(10)~~[Utah Code]~~, this rule intends to establish the procedures for issuing subpoenas by the State Records Committee.

**R35-5-2. Subpoenas.**

(1) ~~To [in order to]~~ initiate a request for a subpoena, a party shall file a written request with the Committee Chair at least 16 days prior to a hearing. The request shall describe the purpose for which the subpoena is sought, and state specifically why, given that hearsay is available before the Committee, the individual being subpoenaed must be present.

(2) The Committee Chair shall review each subpoena request and grant or deny the request within three business days, based on the following considerations:

(a) a weighing of the proposed witness's testimony as material and necessary; or

(b) a weighing of the burden to the witness against the need to have the witness present.

(3) If the Committee Chair grants the subpoena request, the requesting party may obtain a subpoena form, signed, but otherwise blank, from the Executive Secretary. The requesting party shall fill out the subpoena and have it served upon the proposed witness at least seven business days prior to a hearing.

(4) A subpoenaed witness shall be entitled to witness fees and mileage reimbursement to be paid by the requesting party. Witnesses shall receive the same witness fees and mileage reimbursement allowed by law to witnesses in a state district court.

(5) A subpoenaed witness may file a motion to quash the subpoena with the Executive Secretary at least one week before~~[three business days prior to]~~ the hearing at which the witness has been ordered to be present, and shall simultaneously ~~send~~transmit a copy of that motion to the parties. Such motion shall include the reasons for quashing the subpoena, and shall be granted or denied by the Committee Chair based on the same considerations as outlined in Subsection R35-5-2(2). As part of the motion to quash, the witness must state~~[indicate]~~ whether a hearing on the motion is requested. If a hearing is requested, it shall be granted. All parties to the appeal

have a right to be present at the hearing. The hearing must occur prior to the appeal hearing~~[and shall be heard by the Committee Chair]~~. The hearing may be in person or held electronically~~[by telephone]~~, as determined by the Committee Chair. A decision on the motion to quash shall be made~~[rendered]~~ prior to the appeal hearing.

(6) If the Committee Chair denies the request for subpoena, the denial is final and unreviewable.

(7) The Committee may issue a subpoena to compel production of necessary testimony or evidence in a vexatious requester hearing. While the subpoena is pending, the Executive Secretary shall add it to the agenda as a possible action item. If the subject of the subpoena fails to comply or disobeys the subpoena, the Committee may vote to file a motion with the district court.

**KEY:** government documents, state records committee, records appeal hearings, vexatious requester hearings

**Date of Last Change:** ~~July 31, 2015~~ 2023

**Notice of Continuation:** June 3, 2019

**Authorizing, and Implemented or Interpreted Law:** 63G-2-502(2)(a), 63G-2-209(7)

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R35-6</b>	<b>Filing ID:</b> <b>55402</b>
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**Agency Information**

<b>1. Department:</b>	Government Operations	
<b>Agency:</b>	Records Committee	
<b>Street address:</b>	346 S Rio Grande St	
<b>City, state and zip:</b>	Salt Lake City, UT 84101	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Rebekkah Shaw	801-531-3851	rshaw@utah.gov

**Please address questions regarding information on this notice to the persons listed above.**

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

R35-6. Expedited Hearing

**3. Purpose of the new rule or reason for the change:**

The purpose of this amendment is to clarify when expedited hearings may be scheduled.

**4. Summary of the new rule or change:**

The revision allows the Executive Secretary to schedule an expedited hearing at the next scheduled meeting.

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

There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to be in line with current practice.

**B) Local governments:**

There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to be in line with current practice.

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

There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to be in line with current practice.

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

There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to be in line with current practice.

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

There are no substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to be in line with current practice.

**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 substantive changes being made regarding the fiscal impact of this rule. The changes in this rule are created to be in line with current practice.

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

<b>Fiscal Cost</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Deputy Director of the Department of Government Operations, Christopher Hughes, 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 63G-2-209(12)		
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**Public Notice Information****8. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	07/17/2023
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**9. This rule change MAY become effective on:**

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Kenneth Williams, Director and State Archivist	<b>Date:</b>	05/08/2023
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**R35. Government Operations, Records Committee.****R35-6. Expedited Hearing.****R35-6-1. Authority and Purpose.**

In accordance with Section 62G-2-209 and Subsection 63G-2-403(4)(a)(i), this rule establishes the procedure for requesting and scheduling an Expedited Hearing.

**R35-6-2. Requests for an Expedited Hearing.**

(1) A party appealing ~~[a records classification]~~ to the Committee may request that a hearing be scheduled ~~[to hear the appeal prior to]~~ within ten business days ~~of~~ after the date the notice of appeal is filed by making a written request to the Executive Secretary. A copy of this request shall also be mailed to the government entity.

(2) A written request shall include the reasons ~~[(s)]~~ the request is being made.

(3) The Executive Secretary shall consult with the Committee Chair to decide whether an ~~[E]~~expedited ~~[H]~~hearing is warranted.

(4) The standard for granting an ~~[E]~~expedited ~~[H]~~hearing is "good cause shown." The Committee Chair shall take into account the reason for the request, and balance that against the burden to the Committee and the governmental entity.

**R35-6-3. Scheduling the Expedited Hearing.**

(1) ~~If [In the event that]~~ an ~~[E]~~expedited ~~[H]~~hearing is granted, the Executive Secretary shall poll the Committee to determine a date upon which a quorum can be obtained.

(2) After settling on a date no sooner than seven days nor later than 16 days after the notice of appeal has been filed, the Executive Secretary shall contact the petitioner and governmental entity and schedule the hearing.

(3) The government entity shall file its response to the appeal with the Executive Secretary, and mail a copy to the petitioner no later than five days prior to the scheduled hearing. The Executive Secretary shall make this response available to the Committee as soon as possible.

(4) The Executive Secretary may schedule an expedited hearing at the next regularly scheduled meeting with the approval of the Committee Chair.

**R35-6-4. Holding the Expedited Hearing.**

With the exception of the time frame for scheduling a hearing and providing responses, all other provisions governing hearings under the Government Records Access and Management Act (GRAMA) shall apply to ~~[E]~~expedited ~~[H]~~hearings.

**KEY:** government documents, state records committee, records appeal hearings, vexatious requester hearings

Date of Last Change: ~~[July 31, 2015]~~2023

Notice of Continuation: June 3, 2019

Authorizing, and Implemented or Interpreted Law: 63G-2-502(2)

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R64-4</b>	<b>Filing ID:</b> <b>55441</b>
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**Agency Information**

<b>1. Department:</b>	Agriculture and Food	
<b>Agency:</b>	Conservation Commission	
<b>Building:</b>	TSOB South Bldg, Floor 2	
<b>Street address:</b>	4315 S 2700 W	
<b>City, state and zip:</b>	Taylorsville, UT 84129-2128	
<b>Mailing address:</b>	PO Box 146500	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6500	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amber Brown	385-245-5222	ambermbrown@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov
Jim Bowcutt	801-982-2200	jdbowcutt@utah.gov

**Please address questions regarding information on this notice to the persons listed above.**

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

R64-4. Agricultural Water Optimization Program

**3. Purpose of the new rule or reason for the change:**

Changes are needed to ensure that this rule is consistent with the Department of Agriculture and Food's (Department) current management of the Agricultural Water Optimization Program.

**4. Summary of the new rule or change:**

The purposes of the program set forth in Section R64-4-3 have been clarified to be consistent with the program criteria adopted by the Utah Conservation Commission in March of 2023. Specifically, the reference to reducing consumptive water use has been removed.

**Fiscal Information**

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

<b>A) State budget:</b>			
There is no anticipated cost or savings to the state budget. The changes just clarify the purposes of the program which will not impact how it is managed by the Department.			
<b>B) Local governments:</b>			
Local governments do not manage the program or receive funding from it and will not be impacted.			
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):			
There is no anticipated cost or savings to small businesses. The changes just clarify the purposes of the program which will not impact how it is managed by the Department.			
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):			
There is no anticipated cost or savings to non-small businesses. The changes just clarify the purposes of the program which will not impact how it is managed by the Department.			
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):			
Other persons do not participate in the program or manage program operations and will not be impacted.			
<b>F) Compliance costs for affected persons</b> (How much will it cost an impacted entity to adhere to this rule or its changes?):			
There are no compliance costs for program participation.			
<b>G) Regulatory Impact Summary Table</b> (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Commissioner of the Department of Agriculture and Food, Craig W Buttars, has reviewed and approved this regulatory impact analysis.			

#### Citation Information

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Section 4-18-108		

#### Public Notice Information

<b>8. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
<b>A) Comments will be accepted until:</b>	07/17/2023

<b>9. This rule change MAY become effective on:</b>	07/25/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

#### Agency Authorization Information

<b>Agency head or designee and title:</b>	Craig W Buttars, Commissioner	<b>Date:</b>	05/19/2023
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**R64. Agriculture and Food, Conservation Commission.****R64-4. Agricultural Water Optimization Program.****R64-4-1. Authority.**

This rule is authorized by Subsection 4-18-108(4), that requires the Utah Conservation Commission to make rules to implement environmental grant programs authorized under Section 4-18-108 and Subsection 4-18-108(3)(b) that gives authority to establish rules related to the criteria for awarding the grants.[  
64-]

**R64-4-2. Definitions.**

(1) "Agricultural Water" means the same as the term is defined in Subsection 4-18-103(3).

(2) "Agricultural Water Optimization Priority Area" means an area prioritized and approved by the Commission based on a need to address water quality and quantity and their management.

(3) "Application" means a project proposal that is prepared by a person seeking Agricultural Water Optimization Program funds through the process established by the Commission and in accordance with Section 4-18-108.

(4) "Commission" means the Utah Conservation Commission created by Section 4-18-104, chaired by the Commissioner of the Utah Department of Agriculture and Food.

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

(6) "Division of Water Quality Impaired Watershed" means impaired waters that fail to meet water quality standards or are biologically impaired under Section 303(d) of the Clean Water Act, 33 U.S.C. Sec. 125[~~et seq.~~].

(7) "Drinking Water Source Protection Area" means an area governed by the Drinking Water Source Protection Program under Subsection R309-600-6(f), designed to protect drinking water source protection zones and management areas from contaminants that may have an adverse effect on the health of persons.

(8) "Grantee" means a person who has received funding through the Agricultural Water Optimization Program.

(9) "Program Manager" means a department employee assigned by the Commission to oversee the day-to-day activities of the Agricultural Water Optimization Program, or their staff.

(10) "Priority Water Body for Aquatic Species" means a blue-ribbon fishery or area that includes threatened and endangered species as defined in 50 CFR 17.11[~~(f)~~, October 1, 2017 edition~~}]~~.

(11) "Project" means a project that applies for or receives funding under the Agricultural Water Optimization Program.

(12) "Ranking Committee" means an advisory board appointed by the Commission pursuant to Subsection 4-18-108(5) charged with ranking applications for Agricultural Water Optimization Program funding.

(13) "Water Right Groundwater Management Area" or "Critical Management Area" means a groundwater basin in which the groundwater withdrawals consistently exceed the safe yield, pursuant to Subsection 73-5-15(1)(a).

**R64-4-3. Purpose-Agricultural Water Optimization Program.**

Under the Agricultural Water Optimization Program, grants may be awarded to fund projects that further the purposes of the program, which are to:

- (1) improve agricultural water optimization by:
  - (a) [~~reducing consumptive water use while~~]maintaining or improving agriculture production and profitability; and
  - (b) providing increased operational flexibility for agricultural water users;

- (2) improve agricultural water quantification by:
  - (a) showing accurate, real-time measurement of water diverted for funded projects; and
  - (b) documenting actual water savings in cubic feet per second and acre feet; and
  - (3) improve and protect surface and ground water quality.

**R64-4-4. Eligible Entities.**

Any entity that works with agricultural water is eligible to receive grant funding under the Agricultural Water Optimization Program.

**R64-4-5. Application Requirements.**

(1) An application for a grant under the Agricultural Water Optimization Program shall include:

- (a) a detailed description how the project will meet the purposes listed in Section R64-4-2;
- (b) a list who will benefit from the project and why;
- (c) a description of the water that will be made available after implementation of the project and how that water is being used;
- (d) an in-depth description of the project and project design;

- (e) the project designer and title;
- (f) the project cost;
- (g) funding amount requested;
- (h) estimated completion date;
- (i) a list of other funding sources and their contribution to the project;
- (j) the water saved by implementing the project;
- (k) the project cost per acre;
- (l) crop production records;
- (m) the current method of water measurement;
- (n) the type of water measurement equipment to be installed;
- (o) a map of the project area, which shall be located entirely within Utah;
- (p) the county, irrigation season, and water right number associated with the project;
- (q) an in-depth description of what environmental benefits shall be gained by funding the project, including whether the project is in a:

- (i) Division of Water Quality (DWQ) Impaired Watershed;
- (ii) Drinking Water Source Protection Area;
- (iii) Water Right Groundwater Management Area or Critical Management Area; or
- (iv) within a mile of a priority water body for aquatic species; and
- (r) an in-depth description of the water quality benefit to be gained by implementing the project.

(2) Incomplete applications will not be considered or ranked.

**R64-4-6. Ranking Committee.**

(1) Complete applications will be evaluated and ranked by an advisory board appointed by the [~~UCC~~]Commission pursuant to Subsection 4-18-108(3) that will serve as a Ranking Committee.

(2) The Ranking Committee may consist of the following members:

- (a) a member of the Commission;
- (b) a member of the state legislature;
- (c) an agricultural producer appointed by the Utah Farm Bureau;

- (d) a representative of the department;
- (e) a representative of the Utah Division of Water Rights;
- (f) a representative of the DWQ; and
- (g) a representative of Utah State University Extension.

(3) The Ranking Committee shall have at least four members.

(4) Recommendations of the Ranking Committee shall be approved by the Commission before disbursement of Agricultural Water Optimization Program funds.

#### **R64-4-7. Criteria for Awarding Grants.**

(1) The Ranking Committee may consider the following factors when ranking applications for Agricultural Water Optimization Program grant funding:

- (a) how closely the proposed project meets the Agricultural Water Optimization Program goals listed in Section R64-4-2;
- (b) who will benefit from the project;
- (c) the type of project;
- (d) funding sources of the project;
- (e) matching funds available for the project;
- (f) the percentage of water saved;
- (g) how the water savings will be determined;
- (h) the project cost per acre;
- (i) whether the project is in a DWQ impaired watershed;
- (j) whether the project is in a Drinking Water Source Protection Area;
- (k) whether the project implements a total maximum daily load;

(l) whether the project is in a Water Right Ground Water Management Area;

(m) whether the applicant is ready to begin construction on the project;

- (n) the proximity of the project to surface water; and
- (o) whether the project is located in an Agricultural Water Optimization Priority Area.

(2) Any scoring metrics or ranking criteria used by the Ranking Committee shall be approved by the Commission before their use.

#### **R64-4-8. Project Requirements.**

(1) Before project implementation, Agricultural Water Optimization Program grantees shall submit a Utah State Historical Preservation Office Cultural Resource Review report to the program manager, pursuant to Section 9-8-404.

(2) No payments reimbursement will be processed until the program manager has received the report.

(3) Projects shall have real-time metering.

(4) The program manager may conduct on-site or virtual project "spot checks" at any time during the life of the project

(5) Projects will be evaluated through the U. S. Environmental Protection Agency's Spreadsheet Tool for Implementing Pollutant Loads module (STEPL), photo monitoring, or other monitoring depending on the type of project.

(6) The Commission may designate their duties under this section to a ~~[UCC]~~Commission subcommittee.

#### **R64-4-9. Reporting Requirements.**

(1) Grantees shall submit annual reports to the program manager for three years after their project is completed. Annual report requirements shall be set in policy adopted by the ~~[commission]~~Commission.

(2) Failure to submit three years of reporting may result in a requirement to return Agricultural Water Optimization Program funds or ineligibility to receive Agricultural Water Optimization Program funds in the future.

(3) Annually, the Agricultural Water Optimization Program shall gather data related to:

- (a) water savings;
- (b) crop production;
- (c) the number of projects completed; and
- (d) other relevant information.

(4) Program data shall be:

(a) presented as aggregated data to protect the grantee's personal information; and

(b) shared with the:

(i) Natural Resources, Agriculture, and Environment Interim Committee;

(ii) other state agencies, as appropriate; and

(iii) the Agricultural Water Optimization Task Force Created in Section 73-10g-202.

**KEY: agriculture, water optimization, grants**

**Date of Last Change:** ~~April 5, 2022~~2023

**Authorizing, and Implemented or Interpreted Law: 4-18-105**

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

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R68-25</b>	<b>Filing ID:</b> <b>55439</b>
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#### **Agency Information**

<b>1. Department:</b>	Agriculture and Food	
<b>Agency:</b>	Plant Industry	
<b>Street address:</b>	4315 S 2700 W, TSOB South Bldg, Floor 2	
<b>City, state and zip:</b>	Taylorsville, UT 84129-2128	
<b>Mailing address:</b>	PO Box 146500	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6500	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amber Brown	385-245-5222	ambermbrown@utah.gov
Cody James	385-515-1485	codyjames@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov

**Please address questions regarding information on this notice to the persons listed above.**



**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:**

Changes are needed to update this rule to make it consistent with statutory changes passed in H.B. 227, Hemp Amendments, during the 2023 General Session.

**4. Summary of the new rule or change:**

Definitions have been clarified to be consistent with current statute following the passage of H.B. 227 (2023), specifically, the definition of "artificially derived cannabinoid" has replaced "synthetic" and "derivative" cannabinoid definitions.

Additionally, per package and per serving THC limits have been added to the definition of "cannabinoid product."

The definition of "key participant" has also been clarified.

Throughout this rule, references to "industrial hemp" have been removed and replaced with "cannabinoid product" to be more consistent with current statute and the Department of Agriculture and Food's (Department) regulatory authority under this rule.

In Sections R68-25-4 and R68-25-5, background check requirements have been clarified to match current law as well, following the denial of the Department's application to participate in the FBI Rap Back program.

Non-small businesses will not be impacted by this rule change. The Department has addressed the impact of labeling changes required due to new THC limits in the product registration rule (R68-26).

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

These rule changes will not impact other persons because they are not licensed cannabinoid product processors.

**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 because the changes are clarifying in nature.

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

**Regulatory Impact Table**

<b>Fiscal Cost</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

There should be no impact on the state budget. These changes clarify the requirements of this rule. Department management of cannabinoid product processors will not change.

**B) Local governments:**

Local governments will not be impacted because they do not participate in the industrial hemp program.

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

Small businesses will not be impacted by this rule change. The Department has addressed the impact of labeling changes required due to new THC limits in the product registration rule (R68-26).

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

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

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

**Citation Information**

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

Subsection 4-41-103(4)		
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**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	07/17/2023
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<b>9. This rule change MAY become effective on:</b>	07/25/2023
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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**

<b>Agency head or designee and title:</b>	Craig W Butters, Commissioner	<b>Date:</b>	05/22/2023
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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).]~~ (a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the cannabis plant.

(b) "Artificially derived cannabinoid" does not include:

(i) a naturally occurring chemical substance that is separated from the cannabis plant by a chemical or mechanical extraction process; or

(ii) a cannabinoid that is produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst.

(2) "Bulk cannabinoid Product" means cannabinoid product that has been prepped and is ready for final packaging.

(3) "CBD" means cannabidiol (CAS #13956-29-1).

(2) ~~4~~ "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) ~~5~~ "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) ~~6~~ "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~~[-]; and~~

(d) ~~does not exceed a total of THC and any THC analog that is greater than:~~

(i) 5 milligrams per serving; and

(ii) 150 milligrams per package.

(5) ~~7~~ "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) ~~8~~ "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

(7) ~~9~~ "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) ~~10~~ "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) ~~11~~ "Industrial ~~[H]~~ hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by weight.

(12) "Industrial hemp material" means raw concentrate, raw plant material, or materials made from raw plant material or raw concentrates that are not in a final packaged form.

(13) ~~[13] "Key participant" means any of the following: [a] 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.]~~

(a) a licensee;

(b) an operations manager; ["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.]~~

(c) a site manager; or

(d) an employee who has access to any industrial hemp material with a THC concentration above 0.3%.

(2) ~~4~~ "Handle" or "Handling" means possessing, transporting, or storing industrial hemp for any period.

(1[3]5) "Processing" means any action taken to prepare industrial hemp, or material derived from industrial hemp, for market.

(1[4]6) "Processor" means a person licensed by the department to process industrial hemp or a material derived from industrial hemp.

(1[5]7) "Manufacturing" means storing, preparing, packaging, or labeling of industrial hemp, industrial hemp material, or cannabinoid products.

(1[6]8) "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.

(1[7]9) "Raw plant material" or "Raw concentrate" means industrial hemp plant material or concentrate that is not in final product form.

~~(1[8]10) "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.]~~

(1[9]20) "Tetrahydrocannabinol" or "THC" means delta-9-tetrahydrocannabinol, the cannabinoid identified as CAS #1972-08-3.

(2[0]1) "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]~~Cannabinoid Product Processor Licenses.**

(1) The department shall issue the following ~~[industrial hemp]~~cannabinoid product processor licenses:

(a) a Tier One license, which allows a licensee to receive, store, extract, transport, and sell ~~[raw plant material or raw concentrate]~~industrial hemp material 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 bulk cannabinoid product and [cannabinoid concentrate under 0.3% THC concentration, 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 under 0.3% THC concentration, ~~[raw plant]~~industrial hemp material, or finished cannabinoid product to act as a broker, distributor, or wholesaler, and perform minimal processing for storage only.

(2) A Tier One processor may accept ~~[industrial hemp derived cannabinoid]~~raw concentrate with greater than 0.3% THC concentration from another Tier One processor or a Tier ~~[4]~~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.]~~An applicant and any key participants 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 ~~[t]~~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.

(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.]~~A licensee shall 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 (CO<sub>2</sub>) gas extraction system uses a professional grade closed loop CO<sub>2</sub> gas extraction system where each vessel is rated to a minimum of six hundred pounds per square inch and CO<sub>2</sub> shall be at least 99% purity;

(d) ensure that closed loop hydrocarbon, alcohol, or CO<sub>2</sub> 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~~ state 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, 2007 version, 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, 2015 version, 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 Material and Cannabinoid Products.**

(1) A licensee may store industrial hemp material 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 Tier One or Tier Two licensee may store a [cannabinoid]raw 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 and cannabinoid 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]~~ industrial hemp 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)]~~(2) 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.

(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)]~~(7) It is a violation to process raw concentrate without the appropriate industrial hemp processor license.

~~[(9)]~~(8) 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)]~~(9) It is a violation to use ~~[derivative or synthetic]~~ artificially derived cannabinoids in cannabinoid products without notifying the department.

~~[(11)]~~(10) 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 industrial hemp material or cannabinoid product that contains over 0.3% THC or has the potential to contain over 0.3% THC.

~~(12)~~(11) It is a violation to ~~[possess]~~have cannabinoid concentrate without ~~[an industrial hemp]~~a cannabinoid product processing license.

~~(13)~~(12) 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)~~(13) It is a violation to store industrial hemp material without a processor license from the department or a cultivator license from the USDA.

~~(15)~~(14) It is a violation to ~~[possess]~~have non-compliant material.

~~(16)~~(15) It is a violation for a licensee to engage in practices outside of the scope of their license.

~~(17)~~(16) It is a violation to use an extraction method that is not authorized by Section R68-25-6.

~~(18)~~(17) It is a violation to employ a key participant without a background check for longer than 30 days.

~~(19)~~(18) It is a violation to operate a facility that does not meet current Good Manufacturing Practice requirements.

~~(20)~~(19) 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)~~(20) It is a violation to sell a cannabinoid product that has not been tested as required by Section R68-25-10.

~~(22)~~(21) 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)~~(22) It is a violation to deny the department access to ~~[an industrial hemp]~~a cannabinoid product processing facility or ~~[industrial hemp]~~cannabinoid product processing facility records during regular business hours.

**KEY:** cannabidiol, hemp products, hemp extraction, hemp oil

**Date of Last Change:** ~~November 22, 2022~~2023

**Authorizing, and Implemented or Interpreted Law:** 4-41-103(4)

## NOTICE OF PROPOSED RULE

**TYPE OF FILING:** New

<b>Rule or Section Number:</b>	<b>R68-39</b>	<b>Filing ID:</b> <b>55442</b>
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### Agency Information

<b>1. Department:</b>	Agriculture and Food	
<b>Agency:</b>	Plant Industry	
<b>Street address:</b>	4315 S 2700 W, TSOB South Bldg, Floor 2	
<b>City, state and zip:</b>	Taylorsville, UT 84129-2128	
<b>Mailing address:</b>	PO Box 146500	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6500	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amber Brown	385-245-5222	ambermbrown@utah.gov

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**Please address questions regarding information on this notice to the persons listed above.**

### General Information

#### 2. Rule or section catchline:

R68-39. Industrial Hemp Producer Registration

#### 3. Purpose of the new rule or reason for the change:

A new rule is needed to implement changes passed in H.B. 227 during the 2023 General Session. H.B. 227 requires that the Department of Agriculture and Food (Department) write rules establishing an industrial hemp producer registration process in Subsection 4-41-103.1(d). This rule will establish that process.

#### 4. Summary of the new rule or change:

This rule establishes a process by which producers of non-cannabinoid industrial hemp may register with the Department and the requirements associated with that registration.

This new rule includes applicable definitions (Section R68-39-2), application requirements (Section R68-39-3), inspection and testing requirements (Section R68-39-4), registration responsibilities (Sections R68-39-5 and R68-39-6), and violations (Section R68-39-7).

### Fiscal Information

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

##### A) State budget:

There will be Department costs related to staff time needed to implement this rule. This will not be incurred until FY 2024 and will start with approximately 100 staff hours at an average cost of \$40 an hour (\$4,000), increasing by 25% in FY 2025 (to \$5,000) due to increased registrations. This will not be offset by increased revenue because the Department will not charge a fee for industrial hemp producer registration.

##### B) Local governments:

Local governments do not produce industrial hemp products and will not be impacted by this rule.

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



Small businesses that register as industrial hemp producers will not be impacted because there is no fee associated with the registration.

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

Non-small businesses that register as industrial hemp producers will not be impacted because there is no fee associated with the registration.

**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**):

Other persons do not participate in the industrial hemp program and will not be impacted.

**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 associated with industrial hemp producer registration because the program is free for producers of non-cannabinoid products.

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

**Regulatory Impact Table**

<b>Fiscal Cost</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$4,000	\$5,000	\$5,000
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$4,000</b>	<b>\$5,000</b>	<b>\$5,000</b>
<b>Fiscal Benefits</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$(4,000)</b>	<b>\$(5,000)</b>	<b>\$(5,000)</b>

**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 4-41-103.1		
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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:** 07/17/2023

**9. This rule change MAY become effective on:** 07/25/2023

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Craig W Buttars, Commissioner	<b>Date:</b>	05/24/2023
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**R68. Agriculture and Food, Plant Industry.**

**R68-39. Industrial Hemp Producer Registration.**

**R68-39-1. Authority and Purpose.**

Pursuant to Section 4-41-103.1 and Subsection 4-2-103(1)(i), this rule establishes the requirements for a person seeking an industrial hemp producer registration.

**R68-39-2. Definitions.**

For the purposes of this rule:

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

(2) "Handle" or "Handling" means possessing, transporting, or storing industrial hemp for any period.

(3) "Industrial hemp" means the same as the term is defined in Subsection 4-41-102(10).

(4) "Industrial hemp producer registration" means the same as the term is defined in Subsection 4-41-102(12).

(5) "Industrial hemp product" means an item processed by a person handling industrial hemp or containing any chemical compounds derived from industrial hemp, other than cannabinoid material, including:

(a) industrial hemp processed through retting or other processing such that it is suitable fiber for textiles, rope, paper, hempcrete, or other building or fiber materials;

(b) industrial hemp seed processed such that it is incapable of germination and processed such that is suitable for human consumption; or

(c) industrial hemp seed pressed or otherwise processed into oil.

(6) "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.

(7) "Person" means an individual, partnership, association, firm, trust, limited liability company, or corporation or any employees of such.

(8) "Premises" means a place where an industrial hemp fiber product or hemp grain product is manufactured or produced.

(9) "Tetrahydrocannabinol" or "THC" means delta-9-tetrahydrocannabinol, the cannabinoid identified as CAS #1972-08-3.

#### **R68-39-3. Industrial Hemp Producer Registration.**

(1) A person who manufactures industrial hemp products in the state shall secure an industrial hemp producer registration from the department.

(2) A registration shall be obtained before any industrial hemp or hemp seed is obtained.

(3) A person seeking an industrial hemp producer registration shall provide to the department:

(a) the name of the person who manufactures industrial hemp into industrial hemp product;

(b) the address of the location where the industrial hemp product is manufactured; and

(c) written consent allowing a representative of the department to enter any premises where the person is manufacturing industrial hemp products.

(4) A person shall obtain a registration for each individual manufacturing location or storage location where industrial hemp is handled.

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

(6) A registration is renewable for up to a one-year period with an annual renewal application due on or before December 31st of each year.

#### **R68-39-4. Inspection and Testing.**

(1) The department shall have unrestricted access to randomly inspect an industrial hemp producer registrant to ensure industrial hemp received and stored in Utah is in compliance with this rule and Title 4, Chapter 41, Hemp and Cannabinoid Act.

(2) The department shall periodically sample, analyze, and test industrial hemp and industrial hemp products distributed within the state for compliance.

(3) The department may inspect industrial hemp and industrial hemp products distributed or available for distribution for any other reason the department deems necessary.

(4) The sample taken by the department shall be the official sample.

(5) Pursuant to Section 4-1-105, the department may take samples at no charge to the department.

(6) The department may, upon request, inspect a registrant's records of receipt, inventory, and industrial hemp certification.

#### **R68-39-5. Industrial Hemp Producer Registrant Responsibilities.**

A registrant shall:

(1) Ensure that the cannabis plant product received is certified industrial hemp.

(2) Ensure that an industrial hemp product comes from a licensed source.

(3) Maintain records of receipt and distribution.

(4) Ensure that each production location is registered.

#### **R68-39-6. Industrial Hemp Producer Registration Restrictions.**

(1) A registrant may not process or store industrial hemp material in any structure that is used for residential purposes.

(2) A registrant may not process or handle industrial hemp or industrial 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.

#### **R68-39-7. Violation.**

(1) It is a violation to manufacture or produce industrial hemp products without a registration.

(2) It is a violation to handle or store cannabis above 0.3% THC.

(3) It is a violation to distribute or market an industrial hemp product containing a cannabinoid without the required license.

(4) It is a violation to refuse inspection of an industrial hemp producer manufacturing establishment or a storage area.

(5) It is a violation to not keep records in accordance with Section R68-39-5.

(6) It is a violation for an industrial hemp producer registrant to sell viable industrial hemp seed.

#### **KEY: industrial hemp, hemp fiber, hemp grain, production, registration**

**Date of Last Change: 2023**

**Authorizing, and Implemented or Interpreted Law: 4-2-103(1)(i); 4-41-103.3**

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

**TYPE OF FILING:** Repeal

**Rule or Section Number:**

**R359-1**

**Filing ID:**  
**55450**

#### **Agency Information**

**1. Department:** Governor

**Agency:** Economic Opportunity

**Building:** World Trade Center

**Street address:** 60 E South Temple



<b>City, state and zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	60 E South Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84111	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Dane Ishihara	801-792-8764	dishihara@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R359-1. Pete Suazo Utah Athletic Commission Act Rule
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is no longer necessary as a result of the passage of H.B. 333 during the 2022 General Session which moved and renumbered provisions related to the Pete Suazo Utah Athletic Commission Act Rule from the Governor's Office of Economic Opportunity. The Utah Department of Cultural and Community Engagement will file a new rule under the correct title. (EDITOR'S NOTE: The proposed new Rule R457-1 is under ID 55449 in this issue, June 15, 2023, of the Bulletin.)
<b>4. Summary of the new rule or change:</b>
This rule is repealed in its entirety.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The repeal is not expected to have any fiscal impact on state government revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 333 (2022).
<b>B) Local governments:</b>
The repeal is not expected to have any fiscal impact on local governments' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 333 (2022).
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
The repeal is not expected to have any fiscal impact on small businesses' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 333 (2022).

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

The repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 333 (2022).

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

The repeal is not expected to have any fiscal impact on other persons revenues or expenditures because any fiscal impact would have been addressed in the fiscal note of H.B. 333 (2022).

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

The repeal of this rule requires no action or compliance by any persons.

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

**Regulatory Impact Table**

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0

<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Executive Director of the Governor's Office of Economic Development, Ryan Starks, has reviewed and approved this regulatory impact analysis.			

#### Citation Information

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Section 63C-11-101		

#### Public Notice Information

<b>8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)</b>	
<b>A) Comments will be accepted until:</b>	07/17/2023

<b>9. This rule change MAY become effective on:</b>	07/25/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

#### Agency Authorization Information

<b>Agency head or designee and title:</b>	Ryan Starks, Executive Director	<b>Date:</b>	05/31/2023
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**R359. Governor, Economic Development, Pete Suazo Utah Athletic Commission.**

~~**R359-1. Pete Suazo Utah Athletic Commission Act Rule. R359-1-101. Title.**~~

~~This Rule is known as the "Pete Suazo Utah Athletic Commission Act Rule."~~

#### ~~**R359-1-102. Definitions.**~~

~~In addition to the definitions in Title 63C, Chapter 11, the following definitions are adopted for the purpose of this Rule:~~

- ~~(1) "Boxing" means the sport of attack and defense using the fist, covered by an approved boxing glove.~~
- ~~(2) "Designated Commission member" means a member of the Commission designated as supervisor for a contest and responsible for the conduct of a contest, as assisted by other Commission members, Commission personnel, and others, as necessary and requested by the designated Commission member.~~
- ~~(3) "Drug" means a controlled substance, as defined in Title 58, Chapter 37, Utah Controlled Substances Act, or alcohol.~~

~~(4) "Elimination Tournament" means a contest involving unarmed combat in which contestants compete in a series of matches until not more than one contestant remains in any weight category.~~

~~(5) "Mandatory count of eight" means a required count of eight that is given by the referee of a boxing contest to a contestant who has been knocked down.~~

~~(6) "Unprofessional conduct" is as defined in Subsection 63C-11-302(25), and is defined further to include the following:~~

~~(a) as a promoter, failing to promptly inform the Commission of all matters relating to the contest;~~

~~(b) as a promoter, substituting a contestant in the 24 hours immediately preceding the scheduled contest without approval of the Commission;~~

~~(c) violating the rules for conduct of contests;~~

~~(d) testing positive for drugs or alcohol in a random body fluid screen before or after participation in any contest;~~

~~(e) testing positive for HIV, Hepatitis B or C;~~

~~(f) failing or refusing to comply with a valid order of the Commission or a representative of the Commission; and~~

~~(g) entering into a secret contract that contradicts the terms of the contract(s) filed with the Commission.~~

~~(h) providing false or misleading information to the Commission or a representative of the Commission;~~

~~(i) behaving at any time or place in a manner which is deemed by the Commission to reflect discredit to unarmed combat;~~

~~(j) engaging in any activity or practice that is detrimental to the best interests of unarmed combat;~~

~~(k) knowing that an unarmed contestant suffered a serious injury prior to a contest or exhibition and failing or refusing to inform the Commission about that serious injury.~~

~~(l) conviction of a felony or misdemeanor, except for minor traffic violations.~~

~~(7) A "training facility" is a location where ongoing, scheduled training of unarmed combat contestants is held.~~

#### ~~**R359-1-201. Authority Purpose.**~~

~~The Commission adopts this Rule under the authority of Subsection 63C-11-304(1)(b), to enable the Commission to administer Title 63C, Chapter 11, of the Utah Code.~~

#### ~~**R359-1-202. Scope and Organization.**~~

~~Pursuant to Title 63C, Chapter 11, general provisions codified in Sections R359-1-101 through R359-1-512 apply to all contests or exhibitions of "unarmed combat," as that term is defined in Subsection 63C-11-302(23). The provisions of Sections R359-1-601 through R359-1-623 shall apply only to contests of boxing, as defined in Subsection R359-1-102(1). The provisions of Sections R359-1-701 through R359-1-702 shall apply only to elimination tournaments, as defined in R359-1-102(4). The provisions of Section R359-1-801 shall apply only to martial arts contest and exhibitions. The provisions of Section 859-1-901 shall apply only to "White-Collar Contests". The provisions of Sections R359-1-1001 through R359-1-1004 shall apply only to grants for amateur boxing.~~

#### ~~**R359-1-301. Qualifications for Licensure.**~~

~~(1) In accordance with Section 63C-11-308, a license is required for a person to act as or to represent that the person is a promoter, timekeeper, manager, contestant, second, matchmaker, referee, or judge.~~

~~(2) A licensed amateur contestant shall not compete against a professional unarmed combat contestant, or receive a purse, or a percentage of ticket sales, and/or other remuneration (other than for~~

reimbursement for reasonable travel expenses and per diem, consistent with IRS guidelines).

~~\_\_\_\_\_ (3) A licensed manager or contestant shall not referee or judge any event or contestant affiliated with a gym or training facility they have been involved with during the past 12 months.~~

~~\_\_\_\_\_ (4) A promoter shall not hold a license as a referee, judge, second or contestant.~~

#### **R359-1-302. Licensing Procedure.**

~~\_\_\_\_\_ In accordance with the authority granted in Section 63C-11-309, the expiration date for licenses issued by the Commission shall be one year from the date of issuance.~~

#### **R359-1-401. Designation of Adjudicative Proceedings.**

~~\_\_\_\_\_ (1) An adjudicative proceeding before the commission of any of the following proceeding is designated as an informal adjudicative proceeding:~~

~~\_\_\_\_\_ (a) any action to revoke, suspend, restrict, place on probation or enter a reprimand as to a license;~~

~~\_\_\_\_\_ (b) approval or denial of applications for:~~

~~\_\_\_\_\_ (i) initial licensure;~~

~~\_\_\_\_\_ (ii) reinstatement of a license; and~~

~~\_\_\_\_\_ (iii) renewal of a license;~~

~~\_\_\_\_\_ (c) any proceeding conducted subsequent to the issuance of a cease and desist order;~~

~~\_\_\_\_\_ (d) the withholding of a purse by the Commission under Section 63N-10-313.~~

~~\_\_\_\_\_ (e) protests against the results of a contest.~~

~~\_\_\_\_\_ (2) An individual may seek an adjudicated hearing before the Commission for the matters listed in Subsection (1) above by submitting a written request to the Director within 30 days from the date of the action or result.~~

~~\_\_\_\_\_ (3) Subject to the exception under Subsection 63G-4-202(3) or unless otherwise stipulated by all parties, any other adjudicative proceeding before the Commission not specifically listed in under Subsection (1) above, is designated as an informal adjudicative proceeding.~~

#### **R359-1-402. Adjudicative Proceedings in General.**

~~\_\_\_\_\_ (1) The procedure for an adjudicative proceeding is under Section 63G-4-201; and this Rule.~~

~~\_\_\_\_\_ (5) Unless the Commission determines otherwise, the Commission shall be designated as the sole presiding officer in any adjudicative proceeding and where applicable serve as the fact finder in any adjudicative proceeding.~~

~~\_\_\_\_\_ (6) A majority vote of the Commission shall constitute its decision. Orders of the Commission shall be signed by the Director or, in the Director's absence, the Chair of the Commission.~~

#### **R359-1-403. Additional Procedures for Immediate License Suspension.**

~~\_\_\_\_\_ (1) Under Subsection 63N-10-303 (7), the designated Commission member, or in the absence of a designated Commission member the Director may issue an order immediately suspending the license of a licensee upon a finding that the licensee presents an immediate and significant danger to the licensee, other licensees, or the public.~~

~~\_\_\_\_\_ (2) The suspension shall be at such time and for such period as the Commission believes is necessary to protect the health, safety, and welfare of the licensee, other licensees, or the public.~~

~~\_\_\_\_\_ (3) A licensee whose license has been immediately suspended may, within 30 days after the decision of the designated~~

~~Commission member, challenge the suspension by submitting a written request for a hearing to the Director. The Commission shall schedule the hearing as soon as is reasonably practical but not later than 30 days from the receipt of the written request, unless the Commission and the party requesting the hearing agree to conduct the hearing at a later date.~~

#### **R359-1-405. Reconsideration and Judicial Review.**

~~\_\_\_\_\_ Agency review is not available as to any order or decision entered by the Commission. However, any person aggrieved by an adverse determination by the Commission may either seek reconsideration of the order pursuant to Section 63NG-4-302 or seek judicial review of the order pursuant to Section 63G-4-401.~~

#### **R359-1-501. Promoter's Responsibilities in Arranging a Contest.**

~~\_\_\_\_\_ (1) Before a licensed promoter may hold a contest or single contest as part of a single promotion, the promoter shall file with the Commission an application for a permit to hold the contest not less than 15 days before the date of the proposed contest, or not less than seven days for televised contests.~~

~~\_\_\_\_\_ (2) The application shall include the date, time, and place of the contest as well as information concerning the on-site emergency facilities, personnel, and transportation.~~

~~\_\_\_\_\_ (3) The permit application must be accompanied by a contest registration fee determined by the Department under Section 63-38-32.~~

~~\_\_\_\_\_ (4) Before a permit to hold a contest is granted, the promoter shall post a surety bond with the Commission in the amount of \$10,000, or total sum of the contestant purses, officials fees and estimated commission fees, whichever is greater. Promoters who have held less than 5 unarmed combat events in the state of Utah shall deposit an additional \$10,000 minimum Cashier's Check or Bank Draft with the commission no later than 7 days prior to the event or the event may be cancelled by the commission.~~

~~\_\_\_\_\_ (5) Prior to the scheduled time of the contest, the promoter shall have available for inspection the completed physical facilities which will be used directly or indirectly for the contest. The designated Commission member shall inspect the facilities in the presence of the promoter or the promoter's authorized representative, and all deficiencies cited upon inspection shall be corrected before the contest.~~

~~\_\_\_\_\_ (6) A promoter shall be responsible for verifying the identity, record, and suspensions of each contestant. A promoter shall be held responsible for the accuracy of the names and records of each of the participating contestants in all publicity or promotional material.~~

~~\_\_\_\_\_ (7) A promoter shall be held responsible for a contest in which one of the contestants is disproportionately outclassed.~~

~~\_\_\_\_\_ (8) Before a contest begins, the promoter shall give the designated Commission member the funds necessary for payment of contestants, referees, judges, timekeeper and the attending physician(s). The designated Commission member shall pay each contestant, referee, and judge in the presence of one witness.~~

~~\_\_\_\_\_ (9) A promoter shall be not under the influence of alcohol or controlled substances during the contest and until all purses to the contestants and all applicable fees are paid to the commission, officials and ringside physician.~~

~~\_\_\_\_\_ (10) The promoter shall be responsible for payment of any commission fee(s) deducted from a contestant's purse, if the fees are not collected directly from the contestant at the conclusion of the bout or if the contestant fails to compete in the event.~~

~~(11) At the time of an unarmed combat contest weigh in, the promoter of a contest shall provide primary insurance coverage for each uninsured contestant and secondary insurance for each insured contestant in the amount of \$10,000 for each licensed contestant to provide medical, surgical and hospital care for licensed contestants who are injured while engaged in a contest or exhibition:~~

~~(a) The term of the insurance coverage must not require the contestant to pay a deductible, for the medical, surgical or hospital care for injuries he sustains while engaged in a contest or exhibition.~~

~~(b) If a licensed contestant pays for the medical, surgical or hospital care for injuries sustained during a contest or exhibition, the insurance proceeds must be paid to the contestant or his beneficiaries as reimbursement for the payment.~~

~~(c) The promoter shall also provide life insurance coverage of \$10,000 for each contestant in case of death resulting from injuries sustained during a contest or exhibition.~~

~~(d) The required medical insurance and life insurance coverage shall not be waived by the contestant or any other party.~~

~~(e) A contestant seeking medical insurance reimbursement for injuries sustained during an unarmed combat event shall obtain medical treatment for their injuries within 72 hours of their bout and maintain written records of their treatment, expenses and correspondence with the insurance provider and promoter to ensure coverage.~~

~~(f) The promoter shall not delay or circumvent the timely processing of a claim submitted by a contestant injured during a contest or exhibition.~~

~~(12) In addition to the payment of any other fees and money due under this part, the promoter shall pay the following event fees:~~

~~(a) The event attendance fee established in the adopted fee schedule on the date of the event.~~

~~(b) 3% of the first \$500,000, and one percent of the next \$1,000,000, of the total gross receipts from the sale, lease, or other exploitation of internet, broadcasting, television, and motion picture rights for any contest or exhibition thereof, without any deductions for commissions, brokerage fees, distribution fees, advertising, contestants' purses or any other expenses or charges, except in no case shall the fee be more than \$25,000. These fees shall be paid to the commission within 45 days of the event. The promoter shall notify and provide the commission with certified copies of any contracts, agreements or transfers of any internet, broadcasting, television, and motion picture rights for any contest or exhibition within seven days of any such agreements. The commission may require a surety deposit be provided to the commission to ensure these requirements are met.~~

~~(c) the applicable fees assessed by the Association of Boxing Commission designated official record keeper, if not previously paid by the promoter.~~

~~(d) the commission may exempt from the payment of all or part of the assessed fees under this section for a special contest or exhibition based on factors which include:~~

~~(i) a showcase event promoting a greater interest in contests in the state;~~

~~(ii) attraction of the optimum number of spectators;~~

~~(iii) costs of promoting and producing the contest or exhibition;~~

~~(iv) ticket pricing;~~

~~(v) committed promotions and advertising of the contest or exhibition;~~

~~(vi) rankings and quality of the contestants; and~~

~~(vii) committed television and other media coverage of the contest or exhibition.~~

~~(viii) contribution to a 501(c)(3) charitable organization.~~

#### **R359-1-502. Ringside Equipment.**

~~(1) Each promoter shall provide all of the following:~~

~~(a) commission approved gloves in whole, clean and in sanitary condition for each contestant;~~

~~(b) stools for use by the seconds;~~

~~(c) rubber gloves for use by the referees, seconds, ringside physicians, and Commission representatives;~~

~~(d) a stretcher, which shall be available near the ring and near the ringside physician;~~

~~(e) a portable resuscitator with oxygen;~~

~~(f) an ambulance with attendants on site at all times when contestants are competing. Arrangements shall be made for a replacement ambulance if the first ambulance is required to transport a contestant for medical treatment. The location of the ambulance and the arrangements for the substitute ambulance service shall be communicated to the physician;~~

~~(g) seats at ringside for the assigned officials;~~

~~(h) seats at ringside for the designated Commission member;~~

~~(i) ring (cage) cleaning supplies, including bucket, towels and disinfectant;~~

~~(j) a public address system;~~

~~(k) a separate dressing room for each sex, if contestants of both sexes are participating;~~

~~(l) a separate room for physical examinations;~~

~~(m) a separate dressing room shall be provided for officials, unless the physical arrangements of the contest site make an additional dressing room impossible;~~

~~(n) adequate security personnel; and~~

~~(o) sufficient bout sheets for ring officials and the designated Commission member.~~

~~(2) A promoter shall only hold contests in facilities that conform to the laws, ordinances, and regulations regulating the county, city, town, or village where the bouts are situated.~~

~~(3) Restrooms shall not be used as dressing rooms, for physical examinations or weigh ins.~~

#### **R359-1-503. Contracts.**

~~(1) Pursuant to Section 63C-11-320, a copy of the contract between a promoter and a contestant shall be filed with the Commission before a contest begins. The contract that is filed with the Commission shall embody all agreements between the parties.~~

~~(2) A contestant's manager may sign a contract on behalf of the contestant. If a contestant does not have a licensed manager, the contestant shall sign the contract.~~

~~(3) A contestant shall use his own legal name to sign a contract. However, a contestant who is licensed under another name may sign the contract using his licensed name if the contestant's legal name appears in the body of the contract as the name under which the contestant is legally known.~~

~~(4) The contract between a promoter and a contestant shall be for the use of the contestant's skills in a contest and shall not require the contestant to sell tickets in order to be paid for his services.~~

#### **R359-1-504. Complimentary Tickets.**

~~(1) Limitation on issuance, calculation of price, and service charge for payment to contestant working on percentage basis.~~

~~(a) A promoter may not issue complimentary tickets for more than 4 percent of the seats in the house without the Commission's written authorization. The Commission shall not consider complimentary tickets which it authorizes under this Section to constitute part of the total gross receipts from admission fees for the purposes of calculating the license fee prescribed in Subsection 63C-11-311(1).~~

~~(b) If complimentary tickets are issued for more than 4 percent of the seats in the house, each contestant who is working on a percentage basis shall be paid a percentage of the normal price of all complimentary tickets in excess of 4 percent of the seats in the house, unless the contract between the contestant and the promoter provides otherwise and stipulates the number of complimentary tickets which will be issued. In addition, if a service fee is charged for complimentary tickets, the contestant is entitled to be paid a percentage of that service fee, less any deduction for federal taxes and fees.~~

~~(c) Pursuant to Subsection 63C-11-311(3)(a) a promoter shall file, within 10 days after the contest, a report indicating how many complimentary tickets the promoter issued and the value of those tickets.~~

~~(2) Complimentary ticket and tickets at reduced rate, persons entitled or allowed to receive such tickets, duties of promoter, disciplinary action, fees and taxes.~~

~~(a) Each promoter shall provide tickets without charge to the following persons who shall not be liable for the payment of any fees for those tickets:~~

~~(i) the Commission members, Director and representatives;~~

~~(ii) principals and seconds who are engaged in a contest or exhibition which is part of the program of unarmed combat; and~~

~~(iii) holders of lifetime passes issued by the Commission.~~

~~(b) Each promoter may provide tickets without charge or at a reduced rate to the following persons who shall be liable for payment of applicable fees on the reduced amount paid, unless the person is a journalist, police officer or fireman as provided in this Subsection:~~

~~(i) Any of the promoter's employees, and if the promoter is a corporation, to a director or officer who is regularly employed or engaged in promoting programs of unarmed combat, regardless of whether the director or officer's duties require admission to the particular program and regardless of whether the director or officer is on duty at the time of that program;~~

~~(ii) Employees of the Commission;~~

~~(iii) A journalist who is performing a journalist's duties; and~~

~~(iv) A fireman or police officer that is performing the duties of a fireman or police officer.~~

~~(c) Each promoter shall perform the following duties in relation to the issuance of complimentary tickets or those issued at a reduced price:~~

~~(i) Each ticket issued to a journalist shall be clearly marked "PRESS." No more tickets may be issued to journalists than will permit comfortable seating in the press area;~~

~~(ii) Seating at the press tables or in the press area must be limited to journalists who are actually covering the contest or exhibition and to other persons designated by the Commission;~~

~~(iii) A list of passes issued to journalists shall be submitted to the Commission prior to the contest or exhibition;~~

~~(iv) Only one ticket may be sold at a reduced price to any manager, second, contestant or other person licensed by the Commission;~~

~~(v) Any credential issued by the promoter which allows an admission to the program without a ticket, shall be approved in advance by a member of the Commission or the Director. Request for the issuance of such credentials shall be made at least 5 hours before the first contest or exhibition of the program.~~

~~(d) Admission of any person who does not hold a ticket or who is not specifically exempted pursuant to this Section is grounds for suspension or revocation of the promoter's license or for the assessment of a penalty.~~

~~(e) The Commission shall collect all fees and taxes due on any ticket that is not specifically exempt pursuant to this Section, and for any person who is admitted without a ticket in violation of this Section.~~

~~(3) Reservation of area for use by Commission. For every program of unarmed combat, the promoter of the program shall reserve seats at ringside for use by the designated Commission member and Commission representatives.~~

### **~~R359-1-505. Physical Examination - Physician.~~**

~~(1) Not less than one hour before a contest, each contestant shall be given a medical examination by a physician who is appointed by the designated Commission member. The examination shall include a detailed medical history and a physical examination of all of the following:~~

~~(a) eyes;~~

~~(b) teeth;~~

~~(c) jaw;~~

~~(d) neck;~~

~~(e) chest;~~

~~(f) ears;~~

~~(g) nose;~~

~~(h) throat;~~

~~(i) skin;~~

~~(j) scalp;~~

~~(k) head;~~

~~(l) abdomen;~~

~~(m) cardiopulmonary status;~~

~~(n) neurological, musculature, and skeletal systems;~~

~~(o) pelvis; and~~

~~(p) the presence of controlled substances in the body.~~

~~(2) If after the examination the physician determines that a contestant is unfit for competition, the physician shall notify the Commission of this determination, and the Commission shall prohibit the contestant from competing.~~

~~(3) The physician shall provide a written certification of those contestants who are in good physical condition to compete.~~

~~(4) Before a bout, a female contestant shall provide the ringside physician with the results of a pregnancy test performed on the contestant within the previous 14 days. If the results of the pregnancy test are positive, the physician shall notify the Commission, and the Commission shall prohibit the contestant from competing.~~

~~(5) A female contestant with breast implants shall be denied a license.~~

~~(6) A contestant who has had cardiac surgery shall not be issued a license unless he is certified as fit to compete by a cardiovascular surgeon.~~

~~(7) A contest shall not begin until a physician and an attended ambulance are present. The physician shall not leave until the decision in the final contest has been announced and all injured contestants have been attended to.~~

~~(8) The contest shall not begin until the physician is seated at ringside. The physician shall remain at that location for the entire fight, unless it is necessary for the physician to attend to a contestant.~~

### **R359-1-506. Drug Testing.**

~~In accordance with Section 63C-11-309, the following shall apply to drug testing:~~

~~(1) The administration of or use of any:~~

~~(a) Alcohol;~~

~~(b) Illicit drug;~~

~~(c) Stimulant; or~~

~~(d) Drug or injection that has not been approved by the Commission, including, but not limited to, the drugs or injections listed R359-1-506(2), in any part of the body, either before or during a contest or exhibition, to or by any unarmed combatant, is prohibited.~~

~~(2) The following types of drugs, injections or stimulants are prohibited for any unarmed combatant pursuant to R359-1-506 (1):~~

~~(a) Afrinol or any other product that is pharmaceutically similar to Afrinol.~~

~~(b) Co-Tylenol or any other product that is pharmaceutically similar to Co-Tylenol.~~

~~(c) A product containing an antihistamine and a decongestant.~~

~~(d) A decongestant other than a decongestant listed in R359-1-506 (4).~~

~~(e) Any over the counter drug for colds, coughs or sinuses other than those drugs listed in R359-1-506 (4). This paragraph includes, but is not limited to, Ephedrine, Phenylpropanolamine, and Mahuang and derivatives of Mahuang.~~

~~(f) Any drug or substance identified on the 2012 edition of the Prohibited List published by the World Anti-Doping Agency, which is hereby incorporated by reference. The 2012 edition of the Prohibited List may be obtained, free of charge, at [www.wada-ama.org](http://www.wada-ama.org).~~

~~(3) The following types of drugs or injections are not prohibited pursuant to R359-1-506 (1), but their use is discouraged by the Commission for any unarmed combatant:~~

~~(a) Aspirin and products containing aspirin.~~

~~(b) Nonsteroidal anti-inflammatory.~~

~~(4) The following types of drugs or injections are accepted by the Commission:~~

~~(a) Antacids, such as Maalox.~~

~~(b) Antibiotics, antifungals or antivirals that have been prescribed by a physician.~~

~~(c) Antidiarrheals, such as Imodium, Kaopectate or Pepto-Bismol.~~

~~(d) Antihistamines for colds or allergies, such as Bromphen, Brompheniramine, Chlorpheniramine Maleate, Chlor-Trimeton, Dimetane, Hismal, PBZ, Seldane, Tavist 1 or Teldrin.~~

~~(e) Antinauseants, such as Dramamine or Tigan.~~

~~(f) Antipyretics, such as Tylenol.~~

~~(g) Antitussives, such as Robitussin, if the antitussive does not contain codeine.~~

~~(h) Antiulcer products, such as Carafate, Pepcid, Reglan, Tagamet or Zantac.~~

~~(i) Asthma products in aerosol form, such as Brethine, Metaproterenol (Alupent) or Salbutamol (Albuterol, Proventil or Ventolin).~~

~~(j) Asthma products in oral form, such as Aminophylline, Cromolyn, Nasalide or Vancerial.~~

~~(k) Ear products, such as Auralgan, Cerumenex, Cortisporin, Debrox or Vosol.~~

~~(l) Hemorrhoid products, such as Anusol HC, Preparation H or Nupercainal.~~

~~(m) Laxatives, such as Correctol, Doxidan, Dulcolax, Efferyllium, Ex-Lax, Metamucil, Modane or Milk of Magnesia.~~

~~(n) Nasal products, such as Ayr Saline, HuMist Saline, Ocean or Salinex.~~

~~(o) The following decongestants:~~

~~(i) Afrin;~~

~~(ii) Oxymetazoline HCL Nasal Spray; or~~

~~(iii) Any other decongestant that is pharmaceutically similar to a decongestant listed in R359-1-506 (1) or (2).~~

~~(5) At the request of the Commission, the designated Commission member, or the ringside physician, a licensee shall submit to a test of body fluids to determine the presence of drugs or other prohibited substances. A licensee shall give an adequate sample or it will deem to be a denial. The promoter shall be responsible for any costs of testing.~~

~~(6) If the test results in a finding of the presence of a prohibited substance or metabolite or if the licensee is unable or unwilling to provide a sample of body fluids for such a test within 60 minutes of notification, the Commission may take one or more of the following actions:~~

~~(a) immediately suspend the licensee's license in accordance with Section R359-1-403;~~

~~(b) stop the contest in accordance with Subsection 63C-11-316(2);~~

~~(c) initiate other appropriate licensure action in accordance with Section 63C-11-303; or~~

~~(d) withhold the contestant's purse in accordance with Subsection 63C-11-303.~~

~~(7) A contestant who is disciplined pursuant to the provisions of this Rule and who was the winner of a contest shall be disqualified and the decision of the contest shall be changed to "no contest" and shall be fined a minimum of their win bonus.~~

~~(8) Unless the commission determines otherwise at a scheduled meeting, a licensee who tests positive for prohibited substances or their metabolites shall be penalized as follows:~~

~~(a) First offense 180 day suspension.~~

~~(b) Second offense 1 year suspension, and mandatory completion of a supervisory treatment program approved by the commission that licensed the event.~~

~~(c) Third offense 2 year suspension, and mandatory completion of a supervisory treatment program approved by the commission that licensed the event.~~

~~(d) Failure by the contestant to fully disclose all medications taken within 30 days of their pre fight physical, prior to their bout, shall be deemed unprofessional conduct and double the length of any applicable suspension.~~

~~(10) Therapeutic Use Exemptions (TUEs):~~

~~(a) An applicant or licensee who believes he or she has a therapeutic reason to use a substance described in R359-1-506(2) may request a Therapeutic Use Exemption (TUE) to permit continued use of that substance. Such a request may only be granted by the commission itself after a public hearing. The applicant or licensee shall submit the request in writing to the commission. The request shall be accompanied by supporting medical information sufficient to allow the commission to determine whether to grant their request. In reaching its decision, the commission will, at a minimum, determine whether all of the following criteria have been met:~~

~~(i) The applicant or licensee would experience a significant impairment to health if the prohibited substance were to be withheld in the course of treating an acute or chronic medical condition;~~

~~(ii) The therapeutic use of the prohibited substance would produce no additional enhancement of performance other than that which might be anticipated by a return to a state of normal health following the treatment of a legitimate medical condition;~~

~~(iii) The Use of any Prohibited Substance or Prohibited Method to increase "low-normal" levels of any endogenous hormone is not considered an acceptable Therapeutic intervention;~~

~~(iv) Either reasonable therapeutic alternatives to the use of the otherwise prohibited substance have been tried or no reasonable alternative exists; and~~

~~(v) The necessity for the use of the otherwise prohibited substance is not a consequence, wholly or in part, of a prior non-therapeutic use of any substance described in R359-1-506(2).~~

~~(b) The commission may, in its sole discretion, either grant or deny the request or refer the request to the Voluntary Anti-Doping Association (VADA) or similar evaluating body for a recommendation. The evaluating body shall obtain such evaluation and expert consultation as the body deems necessary. The evaluating body shall present the commission with a written recommendation and a detailed basis for that recommendation.~~

~~(c) The applicant shall be responsible to pay any costs associated with the TUE evaluation and all subsequent mandated compliance testing.~~

~~(d) The TUE shall be cancelled, if:~~

~~(i) The contestant does not promptly comply with any requirements or conditions imposed by the commission.~~

~~(ii) The term for which the TUE was granted has expired.~~

~~(iii) The contestant is advised that the TUE has been withdrawn by the commission.~~

~~(11) Failure to disclose the use of a substance described in Rule R359-1-506(2) constitutes unprofessional conduct and subject to additional disciplinary action under Section 63C-11-303.~~

#### **R359-1-507. HIV Testing.**

~~In accordance with Section 63C-11-317, contestants shall produce evidence of a clear test for HIV as a condition to participation in a contest as follows:~~

~~(1) All contestants shall provide evidence in the form of a competent laboratory examination certificate verifying that the contestant is HIV negative at the time of the weigh-in.~~

~~(2) The examination certificate shall certify that the HIV test was completed within 180 days prior to the contest.~~

~~(3) Any contestant whose HIV test is positive shall be prohibited from participating in a contest.~~

#### **R359-1-508. Hepatitis B Surface Antigen (HBsAg) and Hepatitis C Virus (HCV) Antibody Testing.**

~~In accordance with Section 63C-11-317(d), contestants shall produce evidence of a negative test for HBsAg and HCV antibody as a condition to participation in a contest as follows:~~

~~(1) All contestants shall provide evidence in the form of a competent laboratory examination certificate verifying that the contestant is negative at the time of the weigh-in.~~

~~(2) The examination certificate shall certify that the HBsAg and HCV antibody testing was completed within one year prior to the contest. The period may be reduced by the commission to protect public safety in the event of an outbreak.~~

~~(3) Any contestant whose HBV or HCV result is positive shall be prohibited from participating in a contest.~~

~~(4) In lieu of a negative HBsAg test result, a contestant may present laboratory testing evidence of immunity against Hepatitis B virus based on a positive hepatitis B surface antibody (anti HBs) test result or of having received the complete hepatitis B vaccine series as recommended by the Advisory Committee on Immunization Practices.~~

#### **R359-1-509. Contestant Use or Administration of Any Substance.**

~~(1) The use or administration of drugs, stimulants, or non-prescription preparations by or to a contestant during a contest is prohibited, except as provided by this Rule.~~

~~(2) The giving of substances other than water to a contestant during the course of the contest is prohibited.~~

~~(3) The discretionary use of petroleum jelly may be allowed, as determined by the referee.~~

~~(4) The discretionary use of coagulants, adrenalin 1/1000, avetine, and thrombin, as approved by the Commission, may be allowed between rounds to stop the bleeding of minor cuts and lacerations sustained by a contestant. The use of monsel solution, silver nitrate, "new skin," flex collodion, or substances having an iron base is prohibited, and the use of any such substance by a contestant is cause for immediate disqualification.~~

~~(5) The ringside physician shall monitor the use and application of any foreign substances administered to a contestant before or during a contest and shall confiscate any suspicious foreign substance for possible laboratory analysis, the results of which shall be forwarded to the Commission.~~

#### **R359-1-510. Weighing In.**

~~(1) Unless otherwise approved by the Commission for a specific contest, the weigh-in shall occur not less than six nor more than 24 hours before the start of a contest. The designated Commission member or authorized Commission representative(s) shall weigh in each contestant in the presence of other contestants.~~

~~(2) Contestants shall be licensed at the time they are weighed in.~~

~~(3) Only those contestants who have been previously approved for the contest shall be permitted to weigh in.~~

~~(4) Each contestant must weigh in the presence of his opponent, a representative of the commission and an official representing the promoter, on scales approved by the commission at any place designed by the commission.~~

~~(5) The contestant must have all weights stripped from his body before he is weighed in, but may wear shorts. Female contestants are permitted to wear a singlet and/or sports bra for modesty.~~

~~(6) The commission may require contestants to be weighted more than once for any cause deemed sufficient by the commission.~~

~~(7) A contestant who fails to make the weight agreed upon in his bout agreement forfeits:~~

~~(a) Twenty five percent of his purse if no lesser amount is set by the commission's representative; or~~

~~(b) A lesser amount set by the secretary and approved by the commission, unless the weight difference is 1 pound or less.~~

#### **R359-1-511. Event Officials.**

~~(1) Selection and approval of event officials for a contest, bout, program, match, or exhibition.~~

~~(a) The event officials are the referee(s), judges, timekeeper and physician(s).~~

~~(b) The commission shall approve all event officials.~~  
~~(c) The number of event officials assigned is dependent on the number of rounds, bouts and/or championship bouts.~~  
~~(d) The number of event officials required or the substitution of officials for any reason or at any time during the event shall be solely within the power and discretion of the Commission.~~  
~~(2) Event officials are prohibited from being under the influence of alcohol and/or illicit drugs.~~  
~~(a) At the request of the Commission, an event official shall submit to a test of body fluids to determine the presence of drugs and/or alcohol. The event official shall give an adequate sample or it will deem to be a denial and prohibited from participating in future events. The promoter shall be responsible for any costs of testing.~~  
~~(b) Unless the commission determines otherwise at a scheduled meeting, an event official who tests positive for alcohol and/or illegal drugs shall be penalized as follows:~~  
~~(i) First offense—180 day prohibition from participating in unarmed combat events.~~  
~~(ii) Second offense—1 year prohibition from participating in unarmed combat events.~~  
~~(iii) Third offense—2 year prohibition from participating in unarmed combat events.~~  
~~(3) Event officials shall be stationed at places designated by the Commissioner in Charge or Director.~~  
~~(4) Referees, judges, timekeepers and physicians shall be deemed to be independent contractors of the Commission.~~  
~~(5) The Judges, Referee(s) and Timekeeper officiating at any event, bout, program, match, or exhibition shall be paid by the licensed promoter for the event in accordance with the fee schedule approved by the Commission.~~  
~~(6) The promoter shall pay to the Commission the total fees set by the Commission for all officials whom the Commission approves to officiate in a contest or exhibition.~~  
~~(7) Event Officials' Minimum Fee Schedule:~~

#### TABLE

NUMBER OF BOUTS	REFEREE	JUDGE	TIMEKEEPER
1-5	\$100.00	\$50.00	\$35.00
>5	\$100.00	\$100.00	\$50.00

~~(8) If any licensee of the Commission protests the assignment of a referee or judge, the matter will be reviewed by two Commissioners or a Commissioner and the Commission Director and/or Chief Inspector in order to make such disposition of the protest as the facts may justify. Protests not made in a timely manner may be denied.~~

#### **R359-1-512. Announcer.**

~~(1) The promoter may select the event announcer.~~  
~~(2) At the beginning of a contest, the announcer shall announce that the contest is under the auspices of the Commission.~~  
~~(3) The announcer shall announce the names of the referee, judges, and timekeeper when the competitions are about to begin, and shall also announce the changes made in officials as the contest progresses.~~  
~~(4) The announcer shall announce the names of all contestants, their weight, professional record, their city and state of residence, and country of origin if not a citizen.~~  
~~(3) An announcer shall not engage in unprofessional conduct.~~

~~(4) The announcer is prohibited from being under the influence of alcohol and/or illicit drugs.~~  
~~(a) At the request of the Commission, an announcer shall submit to a test of body fluids to determine the presence of drugs and/or alcohol. The event official shall give an adequate sample or it will deem to be a denial and prohibited from participating in future events. The promoter shall be responsible for any costs of testing.~~  
~~(b) Unless the commission determines otherwise at a scheduled meeting, an announcer who tests positive for alcohol and/or illegal drugs shall be penalized as follows:~~  
~~(i) First offense—180 day prohibition from participating in unarmed combat events.~~  
~~(ii) Second offense—1 year prohibition from participating in unarmed combat events.~~  
~~(iii) Third offense—2 year prohibition from participating in unarmed combat events.~~

#### **R359-1-513. Timekeeper.**

~~(1) A timekeeper shall indicate the beginning and end of each round by the gong.~~  
~~(2) A timekeeper shall possess a whistle and a stopwatch.~~  
~~(3) Ten seconds before the beginning of each round, the timekeeper shall warn the contestants of the time by blowing a whistle.~~  
~~(4) If a contest terminates before the scheduled limit of rounds, the timekeeper shall inform the announcer of the exact duration of the contest.~~  
~~(5) The timekeeper shall keep track of and record the exact amount of time that any contestant remains on the canvas.~~

#### **R359-1-514. Stopping a Contest.**

~~In accordance with Subsections 63C-11-316(2) and 63C-11-302(14)(b), authority for stopping a contest is defined, clarified or established as follows.~~  
~~(1) The referee may stop a contest to ensure the integrity of a contest or to protect the health, safety, or welfare of a contestant or the public for any one or more of the following reasons:~~  
~~(a) injuries, cuts, or other physical or mental conditions that would endanger the health, safety, or welfare of a contestant if the contestant were to continue with the competition.~~  
~~(b) one-sided nature of the contest;~~  
~~(c) refusal or inability of a contestant to reasonably compete; and~~  
~~(d) refusal or inability of a contestant to comply with the rules of the contest.~~  
~~(2) If a referee stops a contest, the referee shall disqualify the contestant, where appropriate, and recommend to the designated Commission member that the purse of that professional contestant be withheld pending an impoundment decision in accordance with Section 63C-11-321.~~  
~~(3) The designated Commission member may stop a contest at any stage in the contest when there is a significant question with respect to the contest, the contestant, or any other licensee associated with the contest, and determine whether the purse should be withheld pursuant to Section 63C-11-321.~~

#### **R359-1-515. Competing in an Unsanctioned Unarmed Combat Event.**

~~(1) The Commission shall deny issuing a license to a contestant who has competed in an unarmed combat event not sanctioned by an Association of Boxing Commission (ABC) member commission for a period of 60 days from the date of the event.~~



~~(2) Unarmed combat contestants who are currently licensed by the Commission shall not be approved to compete in an unarmed combat event until 60 days from the date of their last competition in an unarmed combat event not sanctioned by an ABC member commission.~~

~~(3) After competing in an unsanctioned unarmed combat event, a contestant must submit new blood tests results drawn within 30 days of their scheduled event.~~

#### **R359-1-601. Boxing—Contest Weights and Classes.**

~~(1) Boxing weights and classes are established as follows:~~

~~(a) Strawweight: up to 105 lbs. (47.627 kgs.)~~

~~(b) Light Flyweight: over 105 to 108 lbs. (47.627 to 48.988 kgs.)~~

~~(c) Flyweight: over 108 to 112 lbs. (48.988 to 50.802 kgs.)~~

~~(d) Super Flyweight: over 112 to 115 lbs. (50.802 to 52.163 kgs.)~~

~~(e) Bantamweight: over 115 to 118 lbs. (52.163 to 53.524 kgs.)~~

~~(f) Super Bantamweight: over 118 to 122 lbs. (53.524 to 55.338 kgs.)~~

~~(g) Featherweight: over 122 to 126 lbs. (55.338 to 57.153 kgs.)~~

~~(h) Super Featherweight: over 126 to 130 lbs. (57.153 to 58.967 kgs.)~~

~~(i) Lightweight: over 130 to 135 lbs. (58.967 to 61.235 kgs.)~~

~~(j) Super Lightweight: over 135 to 140 lbs. (61.235 to 63.503 kgs.)~~

~~(k) Welterweight: over 140 to 147 lbs. (63.503 to 66.678 kgs.)~~

~~(l) Super Welterweight: over 147 to 154 lbs. (66.678 to 69.853 kgs.)~~

~~(m) Middleweight: over 154 to 160 lbs. (69.853 to 72.574 kgs.)~~

~~(n) Super Middleweight: over 160 to 168 lbs. (72.574 to 76.204 kgs.)~~

~~(o) Light heavyweight: over 168 to 175 lbs. (76.204 to 79.378 kgs.)~~

~~(p) Cruiserweight: over 175 to 200 lbs. (79.378 to 90.80 kgs.)~~

~~(q) Heavyweight: all over 200 lbs. (90.80 kgs.)~~

~~(2) A contestant shall not fight another contestant who is outside of the contestant's weight classification unless prior approval is given by the Commission.~~

~~(3) A contestant who has contracted to box in a given weight class shall not be permitted to compete if he or she exceeds that weight class at the weigh in, unless the contract provides for the opposing contestant to agree to the weight differential. If the weigh in is held the day before the contest and if the opposing contestant does not agree or the contract does not provide for a weight exception, the contestant may have two hours to attempt to lose not more than three pounds in order to be reweighed.~~

~~(4) The Commission shall not allow a contest in which the contestants are not fairly matched. In determining if contestants are fairly matched, the Commission shall consider all of the following factors with respect to the contestant:~~

~~(a) the win-loss record of the contestants;~~

~~(b) the weight differential;~~

~~(c) the caliber of opponents;~~

~~(d) each contestant's number of fights; and~~

~~(e) previous suspensions or disciplinary actions.~~

#### **R359-1-602. Boxing—Number of Rounds in a Bout.**

~~(1) A contest bout shall consist of not less than four and not more than twelve scheduled rounds. Three minutes of boxing shall constitute a round for men's boxing, and two minutes shall constitute a round for women's boxing. There shall be a rest period of one minute between the rounds.~~

~~(2) A promoter shall contract with a sufficient number of contestants to provide a program consisting of at least 30 and not more than 56 scheduled rounds of boxing, unless otherwise approved by the Commission.~~

#### **R359-1-603. Boxing—Ring Dimensions and Construction.**

~~(1) The ring shall be square, and the sides shall not be less than 16 feet nor more than 22 feet. The ring floor shall extend not less than 18 inches beyond the ropes. The ring floor shall be padded with a base not less than 5/8 of an inch of ensolite or another similar closed cell foam. The padding shall extend beyond the ring ropes and over the edge of the platform, and shall be covered with canvas, duck, or a similar material that is tightly stretched and laced securely in place.~~

~~(2) The ring floor platform shall not be more than four feet above the floor of the building, and shall have two sets of suitable stairs for the use of contestants, with an extra set of suitable stairs to be used for any other activities that may occur between rounds. Ring posts shall be made of metal and shall be not less than three nor more than four inches in diameter, extending a minimum of 58 inches above the ring floor. Ring posts shall be at least 18 inches away from the ropes.~~

~~(3) The ring shall not have less than four ring ropes which can be tightened and which are not less than one inch in diameter. The ring ropes shall be wrapped in a soft material. The turnbuckles shall be covered with a protective padding. The ring ropes shall have two spacer ties on each side of the ring to secure the ring ropes. The lower ring rope shall be 18 inches above the ring floor. The ring shall have corner pads in each corner.~~

#### **R359-1-604. Boxing—Gloves.**

~~(1) A boxing contestant's gloves shall be examined before a contest by the referee and the designated Commission member. If gloves are found to be broken or unclean or if the padding is found to be misplaced or lumpy, they shall be changed before the contest begins.~~

~~(2) A promoter shall be required to have on hand an extra set of gloves that are to be used if a contestant's gloves are broken or damaged during the course of a contest.~~

~~(3) Gloves for a main event may be put on in the ring after the referee has inspected the bandaged hands of both contestants.~~

~~(4) During a contest, male contestants shall wear gloves weighing not less than eight ounces each if the contestant weighs 147 lbs. (66.678 kgs.) or less. Contestants who weigh more than 147 lbs. (66.678 kgs.) shall wear gloves weighing ten ounces each. Female contestants' gloves shall be ten ounce gloves. The designated Commission member shall have complete discretion to approve or deny the model and style of the gloves before the contest.~~

~~(5) The laces shall be tied on the outside of the back of the wrist of the gloves and shall be secured. The tips of the laces shall be removed.~~

#### **R359-1-605. Boxing—Bandage Specification.**

~~(1) Except as agreed to by the managers of the contestants opposing each other in a contest, a contestant's bandage for each hand shall consist of soft gauze not more than 20 yards long and not more~~

than two inches wide. The gauze shall be held in place by not more than eight feet of adhesive tape not more than one and one-half inches wide. The adhesive tape must be white or a light color.

(2) Bandages shall be adjusted in the dressing room under the supervision of the designated Commission member.

(3) The use of water or any other substance other than medical tape on the bandages is prohibited.

(4) The bandages and adhesive tape may not extend to the knuckles, and must remain at least three-fourths of an inch away from the knuckles when the hand is clenched to make a fist.

#### **R359-1-606. Boxing – Mouthpieces.**

A round shall not begin until the contestant's form-fitted protective mouthpiece is in place. If, during a round, the mouthpiece falls out of the contestant's mouth, the referee shall, as soon as practicable, stop the bout and escort the contestant to his corner. The mouthpiece shall be rinsed out and replaced in the contestant's mouth and the contest shall continue. If the referee determines that the contestant intentionally spit the mouthpiece out, the referee may direct the judges to deduct points from the contestant's score for the round.

#### **R359-1-607. Boxing – Contest Officials.**

(1) The officials for each boxing contest shall consist of not less than the following:

- (a) one referee;
- (b) three judges;
- (c) one timekeeper; and
- (d) one physician licensed in good standing in Utah.

(2) A licensed referee, judge, or timekeeper shall not officiate at a contest that is not conducted under the authority or supervision of the designated Commission member.

(3) A referee or judge shall not participate or accept an assignment to officiate when that assignment may tend to impair the referee's or judge's independence of judgment or action in the performance of the referee's or judge's duties.

(4) A judge shall be seated midway between the ring posts of the ring, but not on the same side as another judge, and shall have an unimpaired view of the ring.

(5) A referee shall not be assigned to officiate more than 32 scheduled rounds in one day, except when substituting for another referee who is incapacitated.

(6) A referee shall not wear jewelry that might cause injury to the contestants. Glasses, if worn, shall be protective athletic glasses or goggles with plastic lenses and a secure elastic band around the back of the head.

(7) Referees, seconds working in the corners, the designated Commission member, and physicians may wear rubber gloves in the performance of their duties.

(8) No official shall be under the influence of alcohol or controlled substances while performing the official's duties.

#### **R359-1-608. Boxing – Contact During Contests.**

(1) Beginning one minute before the first round begins, only the referee, boxing contestants, and the chief second may be in the ring. The referee shall clear the ring of all other individuals.

(2) Once a contest has begun, only the referee, contestants, seconds, judges, Commission representatives, physician, the announcer and the announcer's assistants shall be allowed in the ring.

(3) At any time before, during or after a contest, the referee may order that the ring and technical area be cleared of any individual not authorized to be present in those areas.

(4) The referee, on his own initiative, or at the request of the designated Commission member, may stop a bout at any time if individuals refuse to clear the ring and technical area, dispute a decision by an official, or seek to encourage spectators to object to a decision either verbally, physically, or by engaging in disruptive conduct. If the individual involved in disruptive conduct or encouraging disruptive conduct is the manager or second of a contestant, the referee may disqualify the contestant or order the deduction of points from that contestant's score. If the conduct occurred after the decision was announced, the Commission may change the decision, declare no contest, or pursue disciplinary action against any licensed individual involved in the disruptive conduct.

#### **R359-1-609. Boxing – Referees.**

(1) The chief official of a boxing contest shall be the referee. The referee shall decide all questions arising in the ring during a contest that are not specifically addressed in this Rule.

(2) The referee shall, before each contest begins, determine the name and location of the physician assigned to officiate at the contest and each contestant's chief second.

(3) At the beginning of each contest, the referee shall summon the contestants and their chief seconds together for final instructions. After receiving the instructions, the contestants shall shake hands and retire to their respective corners.

(4) Where difficulties arise concerning language, the referee shall make sure that the contestant understands the final instructions through an interpreter and shall use suitable gestures and signs during the contest.

(5) No individual other than the contestants, the referee, and the physician when summoned by the referee, may enter the ring or the apron of the ring during the progress of a round.

(6) If a contestant's manager or second steps into the ring or onto the apron of the ring during a round, the fight shall be halted and the referee may eject the manager or second from the ringside working area. If the manager or second steps into the ring or onto the apron a second time during the contest, the fight may be stopped and the decision may be awarded to the contestant's opponent due to disqualification.

(7) A referee shall inspect a contestant's body to determine whether a foreign substance has been applied.

#### **R359-1-610. Boxing – Stalling or Faking.**

(1) A referee shall warn a contestant if the referee believes the contestant is stalling or faking. If after proper warning, the referee determines the contestant is continuing to stall or pull his punches, the referee shall stop the bout at the end of the round.

(2) A referee may consult the judges as to whether or not the contestant is stalling or faking and shall abide by a majority decision of the judges.

(3) If the referee determines that either or both contestants are stalling or faking, or if a contestant refuses to fight, the referee shall terminate the contest and announce a no contest.

(4) A contestant who, in the opinion of the referee, intentionally falls down without being struck shall be immediately examined by a physician. After conferring with the physician, the referee may disqualify the contestant.

#### **R359-1-611. Boxing – Injuries and Cuts.**

(1) When an injury or cut is produced by a fair blow and because of the severity of the blow the contest cannot continue, the injured boxing contestant shall be declared the loser by technical knockout.

~~\_\_\_\_\_ (2) If a contestant intentionally fouls his opponent and an injury or cut is produced, and due to the severity of the injury the contestant cannot continue, the contestant who commits the foul shall be declared the loser by disqualification.~~

~~\_\_\_\_\_ (3) If a contestant receives an intentional butt or foul and the contest can continue, the referee shall penalize the contestant who commits the foul by deducting two points. The referee shall notify the judges that the injury or cut has been produced by an intentional unfair blow so that if in the subsequent rounds the same injury or cut becomes so severe that the contest has to be suspended, the decision will be awarded as follows:~~

~~\_\_\_\_\_ (a) a technical draw if the injured contestant is behind on points or even on a majority of scorecards; and~~

~~\_\_\_\_\_ (b) a technical decision to the injured contestant if the injured contestant is ahead on points on a majority of the scorecards.~~

~~\_\_\_\_\_ (4) If a contestant injures himself trying to foul his opponent, the referee shall not take any action in his favor, and the injury shall be considered as produced by a fair blow from his opponent.~~

~~\_\_\_\_\_ (5) If a contestant is fouled accidentally during a contest and can continue, the referee shall stop the action to inform the judges and acknowledge the accidental foul. If in subsequent rounds, as a result of legal blows, the accidental foul injury worsens and the contestant cannot continue, the referee shall stop the contest and declare a technical decision with the winner being the contestant who is ahead on points on a majority of the scorecards. The judges shall score partial rounds. If a contestant is accidentally fouled in a contest and due to the severity of the injury the contestant cannot continue, the referee shall rule as follows:~~

~~\_\_\_\_\_ (a) if the injury occurs before the completion of four rounds, declare the contest a technical draw; or~~

~~\_\_\_\_\_ (b) if the injury occurs after the completion of four rounds, declare that the winner is the contestant who has a lead in points on a majority of the scorecards before the round of injury. The judges shall score partial rounds.~~

~~\_\_\_\_\_ (6) If in the opinion of the referee, a contestant has suffered a dangerous cut or injury, or other physical or mental condition, the referee may stop the bout temporarily to summon the physician. If the physician recommends that the contest should not continue, the referee shall order the contest to be terminated.~~

~~\_\_\_\_\_ (7) A fight shall not be terminated because of a low blow. The referee may give a contestant not more than five minutes if the referee believes a foul has been committed. Each contestant shall be instructed to return to his or her respective corner by the referee. The contestants may sit in their respective corners with their mouthpiece removed. After removing their contestant's mouthpiece, the seconds must return to their seats. The seconds may not coach, administer water, or in any other way attend to their contestant, except to replace the mouthpiece when the round is ready to resume.~~

~~\_\_\_\_\_ (8) A physician shall immediately examine and administer aid to a contestant who is knocked out or injured.~~

~~\_\_\_\_\_ (9) When a contestant is knocked out or rendered incapacitated, the referee or second shall not handle the contestant, except for the removal of a mouthpiece, unless directed by the physician to do so.~~

~~\_\_\_\_\_ (10) A contestant shall not refuse to be examined by a physician.~~

~~\_\_\_\_\_ (11) A contestant who has been knocked out shall not leave the site of the contest until one hour has elapsed from the time of the examination or until released by the physician.~~

~~\_\_\_\_\_ (12) A physician shall file a written report with the Commission on each contestant who has been knocked out or injured.~~

### **~~R359-1-612. Boxing—Knockouts.~~**

~~\_\_\_\_\_ (1) A boxing contestant who is knocked down shall take a minimum mandatory count of eight.~~

~~\_\_\_\_\_ (2) In the event of a knockdown, the timekeeper shall immediately start the count loud enough to be heard by the referee, who, after waving the opponent to the farthest neutral corner, shall pick up the count from the timekeeper and proceed from there. The referee shall stop the count if the opponent fails to remain in the corner. The count shall be resumed when the opponent has returned to the corner.~~

~~\_\_\_\_\_ (3) The timekeeper shall signal the count to the referee.~~

~~\_\_\_\_\_ (4) If the boxing contestant taking the count is still down when the referee calls the count of ten, the referee shall wave both arms to indicate that the boxing contestant has been knocked out. The referee shall summon the physician and shall then raise the opponent's hand as the winner. The referee's count is the official count.~~

~~\_\_\_\_\_ (5) If at the end of a round a boxing contestant is down and the referee is in the process of counting, the gong indicating the end of the round shall not be sounded. The gong shall only be sounded when the referee gives the command to box indicating the continuation of the bout.~~

~~\_\_\_\_\_ (6) In the final round, the timekeeper's gong shall terminate the fight.~~

~~\_\_\_\_\_ (7) A technical knockout decision shall be awarded to the opponent if a boxing contestant is unable or refuses to continue when the gong sounds to begin the next round. The decision shall be awarded in the round started by the gong.~~

~~\_\_\_\_\_ (8) The referee and timekeeper shall resume their count at the point it was suspended if a boxing contestant arises before the count of ten is reached and falls down again immediately without being struck.~~

~~\_\_\_\_\_ (9) If both boxing contestants go down at the same time, counting will be continued as long as one of them is still down or until the referee or the ringside physician determines that one or both of the boxing contestants needs immediate medical attention. If both boxing contestants remain down until the count of ten, the bout will be stopped and the decision will be scored as a double knockout.~~

### **~~R359-1-613. Boxing—Procedure After Knockout or Contestant Sustaining Damaging Head Blows.~~**

~~\_\_\_\_\_ (1) A boxing contestant who has lost by a technical knockout shall not fight again for a period of 30 calendar days or until the contestant has submitted to a medical examination. The Commission may require such physical exams as necessary.~~

~~\_\_\_\_\_ (2) A ringside physician shall examine a boxing contestant who has been knocked out in a contest or a contestant whose fight has been stopped by the referee because the contestant received hard blows to the head that made him defenseless or incapable of continuing immediately after the knockout or stoppage. The ringside physician may order post fight neurological examinations, which may include computerized axial tomography (CAT) scans or magnetic resonance imaging (MRI) to be performed on the contestant immediately after the contestant leaves the location of the contest. Post fight neurological examination results shall be forwarded to the Commission by the ringside physician as soon as possible.~~

~~\_\_\_\_\_ (3) A report that records the amount of punishment a fighter absorbed shall be submitted to the Commission by the ringside physician within 24 hours of the end of the fight.~~

~~\_\_\_\_\_ (4) A ringside physician may require any boxing contestant who has sustained a severe injury or knockout in a bout to be thoroughly examined by a physician within 24 hours of the bout. The~~

physician shall submit his findings to the Commission. Upon the physician's recommendation, the Commission may prohibit the contestant from boxing until the contestant is fully recovered and may extend any such suspension imposed.

(5) All medical reports that are submitted to the Commission relative to a physical examination or the condition of a boxing contestant shall be confidential and shall be open for examination only by the Commission and the licensed contestant upon the contestant's request to examine the records or upon the order of a court of competent jurisdiction.

(6) A boxing contestant who has been knocked out or who received excessive hard blows to the head that made him defenseless or incapable of continuing shall not be permitted to take part in competitive or noncompetitive boxing for a period of not less than 60 days. Noncompetitive boxing shall include any contact training in the gymnasium. It shall be the responsibility of the boxing contestant's manager and seconds to assure that the contestant complies with the provisions of this Rule. Violation of this Rule could result in the indefinite suspension of the contestant and the contestant's manager or second.

(7) A contestant may not resume boxing after any period of rest prescribed in Subsections R359-1-613(1) and (6), unless following a neurological examination, a physician certifies the contestant as fit to take part in competitive boxing. A boxing contestant who fails to secure an examination prior to resuming boxing shall be automatically suspended until the results of the examination have been received by the Commission and the contestant is certified by a physician as fit to compete.

(8) A boxing contestant who has lost six consecutive fights shall be prohibited from boxing again until the Commission has reviewed the results of the six fights or the contestant has submitted to a medical examination by a physician.

(9) A boxing contestant who has suffered a detached retina shall be automatically suspended and shall not be reinstated until the contestant has submitted to a medical examination by an ophthalmologist and the Commission has reviewed the results of the examination.

(10) A boxing contestant who is prohibited from boxing in other states or jurisdictions due to medical reasons shall be prohibited from boxing in accordance with this Rule. The Commission shall consider the boxing contestant's entire professional record regardless of the state or country in which the contestant's fights occurred.

(11) A boxing contestant or the contestant's manager shall report any change in the contestant's medical condition which may affect the contestant's ability to fight safely. The Commission may, at any time, require current medical information on any contestant.

**R359-1-614. Boxing – Waiting Periods.**

(1) The number of days that shall elapse before a boxing contestant who has competed anywhere in a bout may participate in another bout shall be as follows:

TABLE

Length of Bout (In Scheduled Rounds)	Required Interval (In Days)
4	3
5-9	5
10-12	7

**R359-1-615. Boxing – Fouls.**

(1) A referee may disqualify or penalize a boxing contestant by deducting one or more points from a round for the following fouls:

- (a) holding an opponent or deliberately maintaining a clinch;
- (b) hitting with the head, shoulder, elbow, wrist, inside or butt of the hand, or the knee;
- (c) hitting or gouging with an open glove;
- (d) wrestling, spinning or roughing at the ropes;
- (e) causing an opponent to fall through the ropes by means other than a legal blow;
- (f) gripping at the ropes when avoiding or throwing punches;
- (g) intentionally striking at a part of the body that is over the kidneys;
- (h) using a rabbit punch or hitting an opponent at the base of the opponent's skull;
- (i) hitting on the break or after the gong has sounded;
- (j) hitting an opponent who is down or rising after being down;
- (k) hitting below the belt line;
- (l) holding an opponent with one hand and hitting with the other;
- (m) purposely going down without being hit or to avoid a blow;
- (n) using abusive language in the ring;
- (o) un sportsmanlike conduct on the part of the boxing contestant or a second whether before, during, or after a round;
- (p) intentionally spitting out a mouthpiece;
- (q) any backhand blow; or
- (r) biting.

**R359-1-616. Boxing – Penalties for Fouling.**

(1) A referee who penalizes a boxing contestant pursuant to this Rule shall notify the judges at the time of the infraction to deduct one or more points from their scorecards.

(2) A boxing contestant committing a deliberate foul, in addition to the deduction of one or more points, may be subject to disciplinary action by the Commission.

(3) A judge shall not deduct points unless instructed to do so by the referee.

(4) The designated Commission member shall file a complaint with the Commission against a boxing contestant disqualified on a foul. The Commission shall withhold the purse until the complaint is resolved.

**R359-1-617. Boxing – Contestant Outside the Ring Ropes.**

(1) A boxing contestant who has been knocked, wrestled, pushed, or has fallen through the ropes during a contest shall not be helped back into the ring, nor shall the contestant be hindered in any way by anyone when trying to reenter the ring.

(2) When one boxing contestant has fallen through the ropes, the other contestant shall retire to the farthest neutral corner and stay there until ordered to continue the contest by the referee.

(3) The referee shall determine if the boxing contestant has fallen through the ropes as a result of a legal blow or otherwise. If the referee determines that the boxing contestant fell through the ropes as a result of a legal blow, he shall warn the contestant that the contestant must immediately return to the ring. If the contestant fails to immediately return to the ring following the warning by the referee, the referee shall begin the count that shall be loud enough to be heard by the contestant.

(4) If the boxing contestant enters the ring before the count of ten, the contest shall be resumed.

~~(5) If the boxing contestant fails to enter the ring before the count of ten, the contestant shall be considered knocked out.~~

~~(6) When a contestant has accidentally slipped or fallen through the ropes, the contestant shall have 20 seconds to return to the ring.~~

#### **R359-1-618. Boxing—Scoring.**

~~(1) Officials who score a boxing contest shall use the 10-point must system.~~

~~(2) For the purpose of this Rule, the "10-point must system" means the winner of each round received ten points as determined by clean hitting, effective aggressiveness, defense, and ring generalship. The loser of the round shall receive less than ten points. If the round is even, each boxing contestant shall receive not less than ten points. No fraction of points may be given.~~

~~(3) Officials who score the contest shall mark their cards in ink or in indelible pencil at the end of each round.~~

~~(4) Officials who score the contest shall sign their scorecards.~~

~~(5) When a contest is scored on the individual score sheets for each round, the referee shall, at the end of each round, collect the score sheet for the round from each judge and shall give the score sheets to the designated Commission member for computation.~~

~~(6) Referees and judges shall be discreet at all times and shall not discuss their decisions with anyone during a contest.~~

~~(7) A decision that is rendered at the termination of a boxing contest shall not be changed without a hearing, unless it is determined that the computation of the scorecards of the referee and judges shows a clerical or mathematical error giving the decision to the wrong contestant. If such an error is found, the Commission may change the decision.~~

~~(8) After a contest, the scorecards collected by the designated Commission member shall be maintained by the Commission.~~

~~(9) If a referee becomes incapacitated, a time out shall be called and the other referee who is assigned to the contest shall assume the duties of the referee.~~

~~(10) If a judge becomes incapacitated and is unable to complete the scoring of a contest, a time out shall be called and an alternate licensed judge shall immediately be assigned to score the contest from the point at which he assumed the duties of a judge. If the incapacity of a judge is not noticed during a round, the referee shall score that round and the substitute judge shall score all subsequent rounds.~~

#### **R359-1-619. Boxing—Seconds.**

~~(1) A boxing contestant shall not have more than four seconds, one of whom shall be designated as the chief second. The chief second shall be responsible for the conduct in the corner during the course of a contest. During the rest period, one second shall be allowed inside the ring, two seconds shall be allowed on the apron and one second shall be allowed on the floor.~~

~~(2) All seconds shall remain seated during the round.~~

~~(3) A second shall not spray or throw water on a boxing contestant during a round.~~

~~(4) A boxing contestant's corner shall not heckle or in any manner annoy the contestant's opponent or the referee, or throw any object into the ring.~~

~~(5) A second shall not enter the ring until the timekeeper has indicated the end of a round.~~

~~(6) A second shall leave the ring at the timekeeper's whistle and shall clear the ring platform of all obstructions at the sound of the~~

~~gong indicating the beginning of a round. Articles shall not be placed on the ring floor until the round has ended or the contest has terminated.~~

~~(7) A referee may eject a second from a ring corner for violations of the provisions of Subsections R359-1-609(6) and R359-1-608(4) of this Rule (stepping into the ring and disruptive behavior) and may have the judges deduct points from a contestant's corner.~~

~~(8) A second may indicate to the referee that the second's boxing contestant cannot continue and that the contest should be stopped. Only verbal notification or hand signals may be used; the throwing of a towel into the ring does not indicate the defeat of the second's boxing contestant.~~

~~(9) A second shall not administer alcoholic beverages, narcotics, or stimulants to a contestant, pour excessive water on the body of a contestant, or place ice in the trunks or protective cup of a contestant during the progress of a contest.~~

#### **R359-1-620. Boxing—Managers.**

~~A manager shall not sign a contract for the appearance of a boxing contestant if the manager does not have the boxing contestant under contract.~~

#### **R359-1-621. Boxing—Identification—Photo Identification Cards.**

~~(1) Each boxing contestant shall provide two pieces of identification to the designated Commission member before participation in a fight. One of the pieces of identification shall be a recent photo identification card issued or accepted by the Commission at the time the boxing contestant receives his original license.~~

~~(2) The photo identification card shall contain the following information:~~

~~(a) the contestant's name and address;~~

~~(b) the contestant's social security number;~~

~~(c) the personal identification number assigned to the contestant by a boxing registry;~~

~~(d) a photograph of the boxing contestant; and~~

~~(e) the contestant's height and weight.~~

~~(3) The Commission shall honor similar photo identification cards from other jurisdictions.~~

~~(4) Unless otherwise approved by the Commission, a boxing contestant will not be allowed to compete if his or her photo identification card is incomplete or if the boxing contestant fails to present the photo identification card to the designated Commission member prior to the bout.~~

#### **R359-1-622. Boxing—Dress for Contestants.**

~~(1) Boxing contestants shall be required to wear the following:~~

~~(a) trunks that are belted at the contestant's waistline. For the purposes of this Subsection, the waistline shall be defined as an imaginary horizontal line drawn through the navel to the top of the hips. Trunks shall not have any buckles or other ornaments on them that might injure a boxing contestant or referee;~~

~~(b) a foul proof protector for male boxing contestants and a pelvic area protector and breast protector for female boxing contestants;~~

~~(c) shoes that are made of soft material without spikes, cleats, or heels;~~

~~(d) a fitted mouthpiece; and~~

~~(e) gloves meeting the requirements specified in Section~~

~~R359-1-604.~~

~~(2) In addition to the clothing required pursuant to Subsections R359-1-622(1)(a) through (e), a female boxing contestant shall wear a body shirt or blouse without buttons, buckles, or ornaments.~~

~~(3) A boxing contestant's hair shall be cut or secured so as not to interfere with the contestant's vision.~~

~~(4) A boxing contestant shall not wear corrective lenses other than soft contact lenses into the ring. A bout shall not be interrupted for the purposes of replacing or searching for a soft contact lens.~~

#### **R359-1-623. Boxing – Failure to Compete.**

~~A boxing contestant's manager shall immediately notify the Commission if the contestant is unable to compete in a contest due to illness or injury. A physician may be selected as approved by the Commission to examine the contestant.~~

#### **R359-1-701. Elimination Tournaments.**

~~(1) In general. The provisions of Title 63C, Chapter 11, and Rule R359-1 apply to elimination tournaments, including provisions pertaining to licenses, fees, stopping contests, impounding purses, testing requirements for contestants, and adjudicative proceedings. For purposes of identification, an elimination tournament contestant shall provide any form of identification that contains a photograph of the contestant, such as a state driver's license, passport, or student identification card.~~

~~(2) Official rules of the sport. Upon requesting the Commission's approval of an elimination tournament in this State, the sponsoring organization or promoter of an elimination tournament may submit the official rules for the particular sport to the Commission and request the Commission to apply the official rules in the contest.~~

~~(3) The Commission shall not approve the official rules of the particular sport and shall not allow the contest to be held if the official rules are inconsistent, in any way, with the purpose of the Pete Suazo Utah Athletic Commission Act, Title 63C, Chapter 11, or with the Rule adopted by the Commission for the administration of that Act, Rule R359-1.~~

#### **R359-1-702. Restrictions on Elimination Tournaments.**

~~Elimination tournaments shall comply with the following restrictions:~~

~~(1) An elimination tournament must begin and end within a period of 48 hours.~~

~~(2) All matches shall be scheduled for no more than three rounds. A round must be one minute in duration.~~

~~(3) A contestant shall wear 16 oz. boxing gloves, training headgear, a mouthpiece and a large abdominal groin protector during each match.~~

~~(4) A contestant may participate in more than one match, but a contestant shall not compete more than a total of 12 rounds.~~

~~(5) The promoter of the elimination tournament shall be required to supply at the time of the weigh in of contestants, a physical examination on each contestant, conducted by a physician not more than 60 days prior to the elimination tournament in a form provided by the Commission, certifying that the contestant is free from any physical or mental condition that indicates the contestant should not engage in activity as a contestant.~~

~~(6) The promoter of the elimination tournament shall be required to supply at the time of the weigh in of the contestants HIV test results for each contestant pursuant to Subsection R359-1-507 of this Rule and Subsection 63C-11-317(1).~~

~~(7) The Commission may impose additional restrictions in advance of an elimination tournament.~~

#### **R359-1-801. Martial Arts Contests and Exhibitions.**

~~(1) In general. All full contact martial arts are forms of unarmed combat. Therefore, the provisions of Title 63C, Chapter 11, and Rule R359-1 apply to contests or exhibitions of such martial arts, including provisions pertaining to licenses, fees, stopping contests, impounding purses, testing requirements for contestants, and adjudicative proceedings. For purposes of identification, a contestant in a martial arts contest or exhibition shall provide any form of identification that contains a photograph of the contestant, such as a state driver's license, passport, or student identification card.~~

~~(2) Official rules of the art. Upon requesting the Commission's approval of a contest or exhibition of a martial art in this State, the sponsoring organization or promoter may submit the official rules for the particular art to the Commission and request the Commission to apply the official rules in the contest or exhibition.~~

~~(3) The Commission shall not approve the official rules of the particular art and shall not allow the contest or exhibition to be held if the official rules are inconsistent, in any way, with the purpose of the Pete Suazo Utah Athletic Commission Act, Title 63C, Chapter 11, or with the Rule adopted by the Commission for the administration of that Act, Rule R359-1.~~

#### **R359-1-802. Martial Arts Contest Weights and Classes.**

~~Martial Arts Contest Weights and Classes:~~

~~(a) flyweight is up to and including 125 lbs. (56.82 kgs.);~~

~~(b) bantamweight is over 125 lbs. (56.82 kgs.) to 135 lbs. (61.36 kgs.);~~

~~(c) featherweight is over 135 lbs. (61.36 kgs.) to 145 lbs. (65.91 kgs.);~~

~~(d) lightweight is over 145 lbs. (65.91 kgs.) to 155 lbs. (70.45 kgs.);~~

~~(e) welterweight is over 155 lbs. (70.45 kgs.) to 170 lbs. (77.27 kgs.);~~

~~(f) middleweight is over 170 lbs. (77.27 kgs.) to 185 lbs. (84.09 kgs.);~~

~~(g) light heavyweight is over 185 lbs. (84.09 kgs.) to 205 lbs. (93.18 kgs.);~~

~~(h) heavyweight is over 205 lbs. (93.18 kgs.) to 265 lbs. (120.45 kgs.); and~~

~~(i) super heavyweight is over 265 lbs. (120.45 kgs.).~~

#### **R359-1-901. "White Collar Contests".**

~~Pursuant to Section 63C-11-302 (26), the Commission adopts the following rules for "White Collar Contests":~~

~~(1) Contestants shall be at least 21 years old on the day of the contest.~~

~~(2) Competing contestants shall be of the same gender.~~

~~(3) The heaviest contestant's weight shall be no greater than 15 percent more than their opponent.~~

~~(4) A ringside physician (M.D. or D.O.) must be present at the ringside or cageside during each bout and emergency medical response must be within 5 minutes to the training center venue.~~

~~(5) Ticket sales, admission fees and/or donations are prohibited.~~

~~(6) Concession sales are prohibited.~~

~~(7) No more than 4 bouts at an event on a single day are permitted.~~

~~(8) Knee strikes to the head to a standing or grounded opponent are prohibited.~~

~~(9) Elbow, forearm and triceps strikes to a standing or grounded opponent are prohibited.~~  
~~(10) Strikes to the head of a grounded opponent are prohibited.~~  
~~(11) All twisting leg submissions are prohibited.~~  
~~(12) All spine attacks, including spine strikes and locks are prohibited.~~  
~~(13) All neck attacks, including strikes, chokes and cranks are prohibited.~~  
~~(14) Linear kicks to and around the knee joint are prohibited.~~  
~~(15) Dropping your opponent on his or her head or neck at any time is prohibited.~~  
~~(16) Medical insurance coverage for each contest participant that meets the requirements of R359-1-501(10) shall be provided at no expense to the contest participant.~~  
~~(17) Full legal names, birthdates and addresses of all contestants shall be provided to the commission no later than 72 hours before the scheduled event.~~

#### **~~R359-1-1001. Authority Purpose.~~**

~~These rules are adopted to enable the Commission to implement the provisions of Section 63C-11-311 to facilitate the distribution of General Fund monies to Organizations Which Promote Amateur Boxing in the State.~~

#### **~~R359-1-1002. Definitions.~~**

~~Pursuant to Section 63C-11-311, the Commission adopts the following definitions:~~

- ~~(1) For purposes of Subsection 63C-11-311, "amateur boxing" means a live boxing contest conducted in accordance with the standards and regulations of USA Boxing, Inc., and in which the contestants participate for a non-cash purse.~~
- ~~(2) "Applicant" means an Organization Which Promotes Amateur Boxing in the State as defined in this section.~~
- ~~(3) "Grant" means the Commission's distribution of monies as authorized under Section 63C-11-311(3).~~
- ~~(4) "Organization Which Promotes Amateur Boxing in the State" means an amateur boxing club located within the state, registered with USA Boxing Incorporated.~~
- ~~(5) "State Fiscal Year" means the annual financial reporting period of the State of Utah, beginning July 1 and ending June 30.~~

#### **~~R359-1-1003. Qualifications for Applications for Grants for Amateur Boxing.~~**

- ~~(1) In accordance with Section 63C-11-311, each applicant for a grant shall:~~
  - ~~(a) submit an application in a form prescribed by the Commission;~~
  - ~~(b) provide documentation that the applicant is an "organization which promotes amateur boxing in the State";~~
  - ~~(c) Upon request from the Commission, document the following:~~
    - ~~(i) the financial need for the grant;~~
    - ~~(ii) how the funds requested will be used to promote amateur boxing; and~~
    - ~~(iii) receipts for expenditures for which the applicant requests reimbursement.~~
- ~~(2) Reimbursable Expenditures The applicant may request reimbursement for the following types of eligible expenditures:~~

- ~~(a) costs of travel, including meals, lodging and transportation associated with participation in an amateur boxing contest for coaches and contestants;~~
- ~~(b) Maintenance costs; and~~
- ~~(c) Equipment costs.~~
- ~~(3) Eligible Expenditures In order for an expenditure to be eligible for reimbursement, an applicant must:~~
  - ~~(a) submit documentation supporting such expenditure to the Commission showing that the expense was incurred during the State Fiscal Year at issue; and~~
  - ~~(b) submit such documentation no later than June 30 of the current State Fiscal Year at issue.~~
- ~~(4) the Commission will review applicants and make a determination as to which one(s) will best promote amateur boxing in the State of Utah.~~

#### **~~R359-1-1004. Criteria for Awarding Grants.~~**

~~The Commission may consider any of the following criteria in determining whether to award a grant:~~

- ~~(1) whether any funds have been collected for purposes of amateur boxing grants under Section 63C-11-311;~~
- ~~(2) the applicant's past participation in amateur boxing contests;~~
- ~~(3) the scope of the applicant's current involvement in amateur boxing;~~
- ~~(4) demonstrated need for the funding; or~~
- ~~(5) the involvement of adolescents including rural and minority groups in the applicant's amateur boxing program.~~

**~~KEY: licensing, boxing, unarmed combat, white collar contests~~**

**~~Date of Last Change: April 8, 2020~~**

**~~Notice of Continuation: June 29, 2022~~**

**~~Authorizing, and Implemented or Interpreted Law: 63C-11-101 et seq.]~~**

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

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R414-19A</b>	<b>Filing ID:</b> <b>55446</b>
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#### **Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	(801) 538-6641	cdevashrayee@utah.gov

Jonah Shaw	(385) 310- 2389	jshaw@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

## General Information

<b>2. Rule or section catchline:</b>
R414-19A. Coverage for Dialysis Services by an End Stage Renal Disease Facility
<b>3. Purpose of the new rule or reason for the change</b> (Why is the agency submitting this filing?):
The purpose of this change is to update and clarify the rule text as needed.
<b>4. Summary of the new rule or change</b> (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This amendment updates and clarifies authority, definitions, eligibility, program access, services, care, limitations, prior authorization, and reimbursement for dialysis services in an end-stage renal disease facility.

## Fiscal Information

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There is no impact to the state budget as there are only minor changes and technical updates.
<b>B) Local governments:</b>
There is no impact on local governments as they neither fund nor provide dialysis services under the Medicaid program.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
There is no impact on small businesses as there are only minor changes and technical updates.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
There is no impact on non-small businesses as there are only minor changes and technical updates.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):

There is no impact to other persons or entities as there are only minor changes and technical updates.

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

There are no compliance costs to a single person or entity as there are only minor changes and technical updates.

**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	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this fiscal analysis.

Businesses will see neither costs nor revenue as there are only minor changes and technical updates.



**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 26B-1-213	Section 26B-3-108	
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**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	07/17/2023
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<b>9. This rule change MAY become effective on:</b>	07/25/2023
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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**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	03/27/2023
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**R414. Health and Human Services, Health Care Financing, Coverage and Reimbursement Policy.****R414-19A. Coverage for Dialysis Services by an End-[-]Stage Renal Disease Facility.****R414-19A-0. Policy Statement.**

Dialysis services are provided under the Medicaid State Plan to cover Medicaid ~~[recipients]~~members principally for the 90-day period between the first dialysis service and commencement of Medicare ~~benefits for [E]nd-[S]stage [R]renal [D]isease[-(ESRD) benefits]~~. The ~~[S]state [P]lan~~ also covers dialysis services for Medicaid ~~[recipients]~~members who do not qualify for Medicare coverage.

**R414-19A-1. Authority.**

The provision of clinic services for outpatient dialysis is authorized under ~~[the authority of]~~ 42 CFR 440.20, 440.90, and ~~Attachments 3.1-A and 3.1-B of the Medicaid State Plan[-under Clinic Services]~~.

**R414-19A-2. Definitions.**

(1) "Composite ~~[P]ayment~~" means ~~[a-per]~~each treatment unit of payment that applies to ~~[all]~~claims for dialysis services. The composite payment rate includes payment for ~~[all]~~training, services, evaluations, laboratory tests, items, supplies, medications, and equipment necessary to treat ESRD or perform dialysis.

(2) "Dialysis" means the type of care or service furnished to an ESRD patient and includes ~~[all]~~training, services, evaluations, laboratory tests, items, supplies, medications, and equipment necessary to perform dialysis in a facility, outpatient, or home setting.

(3) "End-[-S]stage ~~[R]renal [D]isease~~" or ~~["ESRD"]~~ means that stage of renal impairment that appears irreversible and permanent, and requires a regular course of dialysis or kidney transplantation to maintain life.

(4) "ESRD facility" means a facility ~~[which is]~~enrolled with ~~[Utah]~~Medicaid and Medicare to furnish at least one specific dialysis service. ~~[Such]~~These facilities include:

(a) ~~A [R]renal transplantation center[- A hospital unit which is]~~ approved to furnish ~~[directly]~~transplantation directly, and other medical and surgical specialty services required for the care of ~~[the]~~ESRD transplant patients, including inpatient dialysis furnished directly or under arrangement. A renal transplantation center may also be a renal dialysis center.

(b) ~~A [R]renal dialysis center[- A hospital unit which is]~~ approved to furnish the ~~[full]~~spectrum of diagnostic, therapeutic, and rehabilitative services required for the care of ESRD dialysis patients, ~~[(including inpatient dialysis furnished directly or under arrangement)]~~. A hospital need not provide renal transplantation to qualify as a renal dialysis center.

(c) ~~A [R]renal dialysis facility[- A unit which is]~~ approved to furnish dialysis services directly to ESRD patients.

(d) ~~A [S]self-dialysis unit[- A unit that] that furnishes self-dialysis services and is part of an approved renal transplantation center, renal dialysis center, or renal dialysis facility[- and furnishes self-dialysis services]~~.

(e) ~~A [S]special purpose renal dialysis facility[- A renal dialysis facility which is]~~ approved to furnish dialysis at special locations on a short-[-]term basis to a group of dialysis patients ~~[otherwise unable to]who cannot otherwise~~ obtain treatment in the geographical area. The special locations, including vacation locations, must be either ~~[special]rehabilitative [(including vacation) locations]~~and serve~~[ing]~~ ESRD patients who reside there temporarily[- residing there], or locations in need of ESRD facilities under emergency circumstances.

**R414-19A-3. Eligibility Requirements.**

Dialysis services are available to both categorically and medically needy Medicaid ~~[recipients]~~members who are not enrolled in a managed care organization.

**R414-19A-4. Program Access Requirements.**

~~[Dialysis services are available to Medicaid recipients when performed through a state-licensed Medicare-approved dialysis facility that is enrolled with Utah Medicaid.]A Medicaid member may access dialysis services if the member receives the services through a state-licensed Medicare-approved dialysis facility enrolled with Medicaid.~~

**R414-19A-5. Service Coverage.**

(1) Medicaid covers [D]dialysis services, including hemodialysis and peritoneal dialysis treatments provided by an ESRD facility~~[-are a covered service]~~ for categorically or medically needy Medicaid ~~[recipients]~~members for three months pending the establishment of Medicare eligibility.

(a) Medicaid may cover dialysis services for longer than three months if a ~~[recipient]~~member is not eligible for Medicare.

(b) Medicaid reimburses dialysis services through a composite payment.

(2) ~~[Medicaid covers dialysis services, including hemodialysis and peritoneal dialysis treatments performed at home, when they are supervised by an enrolled ESRD facility and performed by an appropriately trained Medicaid recipient for three months pending the establishment of Medicare eligibility.]A member may receive dialysis services, including hemodialysis and peritoneal dialysis treatments performed at home, if:~~

(a) the services are supervised by an enrolled ESRD facility; and

(b) the services are performed by an appropriately trained Medicaid member for three months pending the establishment of Medicare eligibility.

(3) Medicare becomes the primary reimbursement source for individuals who meet Medicare- eligibility criteria. ESRD facilities must assist ~~[patients]~~members in applying for and pursuing final Medicare eligibility.

#### R414-19A-6. Standards of Care.

~~[ESRD facilities must comply with the Medicare conditions of participation set forth in 42 CFR 405 and all other applicable federal, state, and local laws and regulations for the licensure, certification, and registration of the ESRD facility.]~~ Medicare becomes the primary reimbursement source for individuals who meet Medicare- eligibility criteria. ESRD facilities must assist members in applying for and pursuing final Medicare eligibility.

#### R414-19A-7. Limitations.

(1) ~~[Payments for dialysis services are eligible only to ESRD facilities that have enrolled with Utah Medicaid and are also enrolled with Medicare as an ESRD provider.]~~ Medicare becomes the primary reimbursement source for individuals who meet Medicare-eligibility criteria. ESRD facilities must assist members in applying for and pursuing final Medicare eligibility.

(2) Medicaid reimburses dialysis services through a composite rate. Payment for services ~~[which]~~that are part of the composite rate may not be reimbursed separately.

(3) Regardless of the dialysis method used, composite payments are limited to one unit ~~[per]~~each session and no more than one unit ~~[per]~~each day. Continuous cycling peritoneal dialysis, or any other dialysis services that occur overnight, are eligible for one composite payment.

#### R414-19A-8. Prior Authorization.

Medicaid does not require ~~[P]~~prior authorization for ESRD dialysis services~~[is not required]~~.

#### R414-19A-9. Reimbursement for Services.

Payment for renal dialysis is based on the established fee schedule unless a lower amount is billed. The amount billed cannot exceed usual and customary charges.

#### KEY: Medicaid

Date of Last Change: ~~[August 10, 2016]~~2023

Notice of Continuation: February 14, 2020

Authorizing, and Implemented or Interpreted Law: 26B-1-~~[5]~~213; ~~[26-18-3]~~26B-3-108

#### NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R432-102	Filing ID: 55437
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#### Agency Information

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Family Health and Preparedness, Licensing	
<b>Room number:</b>	1st Floor	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO BOX 144103	
<b>City, state and zip:</b>	Salt Lake City, UT 84414-4103	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jonah Shaw	385-310-2389	jshaw@utah.gov
Janice Weinman	385-321-5586	jweinman@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

#### General Information

2. Rule or section catchline:
R432-102. Specialty Hospital – Substance Use Disorder
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The purpose of this amendment is to modify and replace outdated language with the Utah Rulewriting Manual standards.
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 revisions include more specific language consistent with the Utah Rulewriting Manual. The substantive change reflects a new rule title to align with current industry terms and standards.

#### Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
State government process was thoroughly reviewed. These changes will not impact the current process for licensure and re-licensure surveys. No change to the state budget is expected because this amendment modifies and replaces outdated language with current state rulewriting manual standards.

**B) Local governments:**

Local government city business licensing requirements were considered. This proposed rule amendment should not impact local governments' revenues or expenditures because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

The Specialty Hospital Substance Use Disorder Standards are regulated by the Department of Health and Human Services and not local governments. There will be no change in local business licensing or any other item(s) with which local government is involved.

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

After conducting a thorough analysis, it was determined that this rule amendment should not impact costs for small businesses because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

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

After conducting a thorough analysis, it was determined that this rule amendment should not impact costs for non-small businesses because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

**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**):

After conducting a thorough analysis, it was determined that this rule amendment will not result in a fiscal impact to affected persons because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

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

After conducting a thorough analysis, it was determined that this rule amendment will not result in a fiscal impact to compliance costs for affected persons because this amendment modifies and replaces outdated language with the Utah Rulewriting Manual standards.

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

<b>Fiscal Cost</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.

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

Section 26B-2-202		
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**Public Notice Information****8. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	07/17/2023
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<b>9. This rule change MAY become effective on:</b>	07/25/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

#### Agency Authorization Information

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	05/22/2023
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#### **R432. Health and Human Services, Health Care Facility ~~(Family Health and Preparedness,)~~ Licensing.**

#### **R432-102. Specialty Hospital - ~~[Chemical Dependency/ Substance Abuse]~~ Substance Use Disorder.**

##### **R432-102-1. Legal Authority.**

This rule is ~~[adopted pursuant to]~~ authorized by ~~[Title 26, Chapter 21]~~ Section 26B-2-202.

##### **R432-102-2. Purpose.**

This rule applies to ~~[the hospital that chooses to be licensed as]~~ a specialty hospital ~~[and which has as its]~~ whose ~~[major single]~~ primary specialty ~~[service]~~ is the treatment of patients with ~~[chemical dependency/substance abuse]~~ substance use disorder. If a specialty hospital licensee chooses to have a ~~[dual major]~~ secondary specialty service, ~~[e.g., chemical dependency/substance abuse and psychiatric care,]~~ then both of the appropriate specialty hospital rules apply.

##### **R432-102-3. Time for Compliance.**

The licensee shall ensure that ~~[All]~~ any substance use disorder specialty hospital[s], ~~[— chemical dependency/substance abuse, obtaining licensure for the first time shall fully comply]~~ is fully compliant with this rule at the time of licensure and at any time when serving patients thereafter.

##### **R432-102-4. Definitions.**

(1) ~~[Refer to Common Definitions in]~~ The common definitions of Rule R432-1-~~[3]~~ apply to a substance use disorder specialty hospital.

(2) ~~[Refer to R432-101-4(2) definition of "specialty hospitals".]~~ "Specialty Hospital" is defined in Rule R432-1.

(3) "Detoxification services" means the systematic reduction or elimination of a toxic agent in the body by use of rest, fluids, medication, counseling, and nursing care is provided according to medical orders and facility protocols.

##### **R432-102-5. Licensure.**

~~[License required. Refer to]~~ Rule R432-2 applies to licensure of a substance use disorder specialty hospital.

##### **R432-102-6. General Construction Rules.**

~~[Specialty Hospital — Chemical Dependency/Substance Abuse Hospital Construction Rules,]~~ Rule R432-8, appl[y]ies to construction and remodel of the facility.

##### **R432-102-7. Organization.**

~~[Refer to]~~ Section R432-100-~~[5]~~6, Governing Body applies to a substance use disorder specialty hospital.

##### **R432-102-8. Administrator.**

~~[Refer to]~~ Section R432-100-~~[6]~~7, Administrator, applies to a substance use disorder specialty hospital.

##### **R432-102-9. Medical and Professional Staff.**

(1) ~~[Refer to]~~ Section R432-100-~~[7,]-~~8, Medical and Professional Staff, applies to a substance use disorder specialty hospital.

(2) Medical and ~~[P]~~professional staff members may be retained~~[either on a full-time basis, a part-time basis,]~~ or by contract, to fulfill the requirements and needs of the treatment programs offered.

(3) The licensee shall ensure that ~~[M]~~medical and ~~[P]~~professional staff ~~[shall be]~~are assigned specific responsibilities on the treatment team as qualified by training and educational experience and as permitted by hospital policy and the scope of their license.

##### **R432-102-10. Nursing.**

~~[Refer to]~~ Section R432-100-14,~~[12,]~~ Nursing Care Services, applies to a substance use disorder specialty hospital.

##### **R432-102-11. Personnel Management Service.**

(1) The licensee shall ensure ~~[The hospital shall provide sufficient]~~ there are enough medical and professional staff and support personnel who are able and competent to perform their respective duties, services, and functions to meet hospital service and patient care needs.

(2) The licensee shall ensure ~~[W]~~written personnel policies and procedures ~~[shall]~~include:

(a) job descriptions for each position, including:~~[job title, job summary, responsibilities, minimum qualifications, required skills and licenses, and physical requirements;]~~

(i) job title;

(ii) job summary;

(iii) responsibilities;

(iv) minimum qualifications;

(v) required skills and licenses; and

(vi) physical requirements; and

(b) a method to handle and resolve grievances from the staff.

(3)(a) The licensee shall orient ~~[All]~~each employee~~[s]~~ ~~[shall be oriented as]~~to job requirements and personnel policies, and provide~~[d with]~~ job training beginning the first day of employment.~~[Documentation shall be signed by the employee and supervisor to indicate basic orientation has been completed during the first month of employment.]~~

(b) The licensee shall maintain documentation signed by the employee and supervisor that verifies completion of basic orientation within the first month of employment.

~~(c)~~(e) The licensee shall ensure ~~[R]~~registered nurses and licensed practical nurses ~~[shall]~~receive additional orientations to include~~[the following]~~:

(i) concepts of treatment provided within the hospital for patients with ~~[chemical dependency/substance abuse]~~substance use disorder diagnoses;

(ii) roles and functions of nurses in treatment programs for patients with ~~[chemical dependency/substance abuse]~~substance use disorder diagnoses; and

(iii) medications used in the treatment of ~~[chemical dependency/substance abuse]~~substance use disorder diagnoses~~[.];~~

(b)d) The licensee shall ensure:~~[In-service sessions shall be planned and held at least quarterly.]~~

~~\_\_\_\_\_ (c) Documentation shall be maintained to demonstrate that all staff have attended an annual in-service on the reporting requirements for abuse, neglect and exploitation for adults and children.]~~

(i) in-service sessions are planned and held at least quarterly; and

(ii) documentation is maintained to demonstrate that each staff member has attended an annual in-service on the reporting requirements for abuse, neglect, and exploitation for adults and children.

(4) The ~~[hospital]~~licensee shall ensure that ~~[all]~~personnel are licensed, certified, or registered as required by the Utah Department of Commerce~~[-]~~ and ~~[C]~~copies of the license, registration, or certificate ~~[shall be]~~are maintained in personnel files for [D]department review.[in the personnel files.]

(5) Volunteers may be utilized in the daily activities of the hospital but ~~[shall]~~may not be included in the hospital's staffing plan in lieu of hospital employees. The licensee shall ensure volunteers are:

(a) ~~[Volunteers shall be]~~screened by the administrator or designee and supervised according to hospital policy~~[-]; and~~

(b) ~~[Volunteers shall be]~~familiar with the hospital's policies and procedures on volunteers, including patient rights and facility emergency procedures.

#### **R432-102-12. Clinical Services.**

(1) ~~The licensee shall [The hospital shall organize and] establish an inpatient clinical services program that includes the following elements: [-detoxification; counseling; and, a referral process to outpatient programs.]~~

(a) ~~[D]detoxification services: [-i.e., the systematic reduction or elimination of a toxic agent in the body by use of rest, fluids, medication, counseling and nursing care shall be provided according to medical orders and facility protocols.]~~

(b) ~~[C]provision for individual, group or family counseling services as needed and indicated in the individual treatment plan; and [-i.e., individual, group, or family therapy shall be provided as indicated in the individual treatment plan. There shall be provision for educational, employment, or other counseling as needed.]~~

(c) ~~[There shall be]a referral process to outpatient treatment services coordinated with other hospital and community services for continuity of care. [-Counselors shall refer clients to public or private agencies for substance abuse rehabilitation, employment and educational counseling], as indicated in the individual treatment plan.~~

(2) The ~~[hospital]~~licensee may provide therapy programs and services on an outpatient basis. If provided, the licensee shall ensure: [These programs and services shall be organized, staffed and managed according to the requirements and needs of the services offered. The therapy programs and services shall be subject to the same medical, administrative and quality assurance oversight as inpatient clinical services programs.]

(a) outpatient programs and services are organized, staffed, and managed according to the requirements and needs of the services offered; and

(b) the therapy programs and services are subject to the same medical, administrative, and quality assurance oversight as inpatient clinical services programs.

#### **R432-102-13. Crisis Intervention Services.**

(1) ~~The licensee shall ensure [If offered, the]that if crisis intervention services are offered, [shall be]they are~~ organized under the direction of the medical director or designee and comply with the following: [-]

(a) ~~[S]services [shall be]are~~ available at any hour to ~~[persons]individuals~~ presenting ~~[themselves]for assistance[-]; and~~

(b) ~~[T]the following public areas [shall be]are~~ available in the crisis intervention service area:

(i) an interview and treatment area for both individuals and families;

(ii) a reception and control area; and

(iii) a public waiting area with telephone, drinking fountain, and toilet facilities.

(2) If the ~~[hospital]~~licensee chooses not to offer crisis intervention services, the ~~[hospital]~~licensee shall have a written referral plan for persons making inquiry regarding such services or presenting themselves for assistance.

(3) The licensee shall ensure:

(a) ~~[T]the crisis intervention service [shall have]has~~ physician coverage 24 hours a day~~[-];~~

(a)b) ~~[N]nursing and other allied health professional staff [shall be]are~~ available in the hospital~~[-];~~

(b)c) ~~[S]staff may have collateral duties elsewhere in the hospital, but [must]shall~~ be able to respond when needed without adversely affecting patient care or treatment elsewhere in the hospital~~[-]; and~~

(4)d) ~~[T]the crisis intervention service [shall]implements policies and procedures [which]that include: [-admission, treatment, medical procedures and applicable reference materials. Involuntary detention of a person must be done according to hospital policy and Utah Law.]~~

(i) admission;

(ii) treatment;

(iii) medical procedures;

(iv) applicable reference materials; and

(v) involuntary detention of a person is done according to hospital policy and Utah law.

#### **R432-102-14. Patient Record.**

(1) ~~[Refer to]Section R432-100-35, [-33,] Medical Records, applies to a substance use disorder specialty hospital.~~

(2) The licensee shall ensure [T]the content of the patient record [shall]contains [-in addition]:

(a) progress notes, including description and date of service, with a summary of client progress, signed by the therapist or service provider; and

(b) a discharge summary, including final evaluation of treatment and goals attained and signed by the therapist.

(3) The licensee shall ensure: [A written individual treatment plan shall be initiated for each patient upon admission and completed no later than seven working days after admission.]

(a) a written individual treatment plan is initiated for each patient upon admission and completed within seven working days following admission;

(a)b) ~~[T]the individual treatment plan [shall be]is~~ part of the patient record and signed by the ~~[person]responsible party~~ for the patient's care~~[-. Patient care shall be administered according to the individual treatment plan.]~~



(c) patient care is administered according to the individual treatment plan;

(b)(4) (F) individual treatment plans ~~must be~~ are reviewed on a weekly basis for the first three months, and ~~thereafter~~ at intervals determined by the treatment team, but not to exceed every other month[-];

(e)(e) (F) the written individual treatment plan ~~shall be~~ is based on a comprehensive functional medical, psycho-social, substance ~~ab~~ use, and treatment history assessment of each patient; ~~When appropriate, the patient and family shall be invited to participate in the development and review of the individual treatment plan. Patient and family participation shall be documented.~~

(f) when appropriate, the patient and family is invited to participate in the development and review of the individual treatment plan and any patient and family participation is documented; and

(d)(g) (F) the individual treatment plan ~~shall be~~ is available to ~~all~~ any personnel who provide care for the patient.

(e)(4) The Utah State Hospital is exempt from the time frames listed in Subsection R432-102-14(3)(a) for initiating and reviewing the individual treatment plan and ~~the Utah State Hospital~~ shall initiate ~~for each patient admitted~~ an individual treatment plan for each patient admitted within 14 days and ~~shall~~ review the plan on a monthly basis.

(4)(5) The licensee shall ensure (F) the confidentiality of the records of substance ~~abuse~~ use disorder patients ~~shall be~~ are maintained according to ~~the federal guidelines is adopted and incorporated as reference~~ The Code of Federal Regulations, Title 42 [CFR], Part 2, ["]Confidentiality of Substance Use Disorder Patient Records. ~~[Alcohol and Drug Abuse Patient Records:]~~

#### **R432-102-15. Required Hospital Services.**

(1) The licensee shall comply with the following sections of the General Hospital Standards, R432-100 in the patient care milieu; ~~and the Specialty Hospital - Psychiatric Standards, R432-101, are adopted by reference. These services shall be provided as part the of the hospital's patient care service milieu;~~

- (1)(a) R432-100-3(4)3, Dietary Services;
- (2)(b) R432-100-3(5)7, Laundry Services;
- (3)(c) R432-100-3(7)2, Maintenance Services; and
- (4)(d) R432-100-3(6)8, Housekeeping Services[;].

~~(5) R432-101-11, Quality Assurance;~~  
~~(6) R432-101-15, Patient Rights;~~  
~~(7) R432-101-16, Emergency and Disaster;~~  
~~(8) R432-101-17, Admission and Discharge Policy;~~  
~~(9) R432-101-18, Transfer Agreement;~~  
~~(10) R432-101-19, Pets in Hospitals;~~  
~~(11) R432-101-23, Physical Restraints, Seclusion, and Behavior Management;~~

- (12) R432-101-28, Laboratory;
- (13) R432-101-29, Pharmacy;
- (14) R432-101-30, Social Services; and,
- (15) R432-101-31, Activity Therapy.]

(2) The licensee shall comply with the following sections of the Specialty Hospital Psychiatric Standards of Rule R432-101 in the patient care milieu:

- (a) R432-101-11, Quality Assurance;
- (b) R432-101-15, Patient Rights;
- (c) R432-101-16, Emergency and Disaster;
- (d) R432-101-17, Admission and Discharge Policy;
- (e) R432-101-18, Transfer Agreement;
- (f) R432-101-19, Pets in Hospitals;

(g) R432-101-23, Physical Restraints, Seclusion, and Behavior Management;

(h) R432-101-28, Laboratory;

(i) R432-101-29, Pharmacy;

(j) R432-101-30, Social Services; and

(k) R432-101-31, Activity Therapy.

#### **R432-102-16. Optional Hospital Services.**

(1) The following sections of the General Hospital Standards, Rule R432-100, ~~and the Specialty Hospital - Psychiatric Standards, R432-101, are adopted by reference. These sections~~ shall apply to a substance use disorder specialty hospital when these services are adopted into, or are required by, the hospital's patient care service milieu[-];

(1)(a) R432-100-1(3)5, Critical Care Unit;

(2)(b) R432-100-(4)20, Pediatric Services;

~~(3) R432-750, Inpatient Hospice;~~

(4)(c) R432-100-2(0)2, Rehabilitation Therapy Services;

(5)(d) R432-100-2(4)3, Radiology Services;

(6)(e) R432-100-(4)21, Respiratory Services; and

(7)(f) R432-100-3(4)6, Central Supply Services; ~~and,~~

~~(8) R432-101-20(1), Inpatient (Psychiatric) Services.]~~

(2) Inpatient Hospice Rule 432-70 applies to a specialty hospital offering this service.

(3) Section R432-101-20, Inpatient Psychiatric Services applies to a specialty hospital offering this service.

#### **R432-102-17. Penalties.**

Any person who violates any provision of this rule may be subject to the penalties enumerated in Section 26B-2-208, ~~[26-21-11 and R432-3-6 and be punished for violation of a class A misdemeanor as provided in 26-21-16.]~~

**KEY: health care facilities**

**Date of Last Change: [June 26, 1998]2023**

**Notice of Continuation: September 1, 2020**

**Authorizing, and Implemented or Interpreted Law: [26-21-5; 26-21-2.1; 26-21-20]26B-2-202**

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

**TYPE OF FILING:** New

**Rule or Section Number:**

**R457-1**

**Filing ID:**  
**55449**

#### **Agency Information**

<b>1. Department:</b>	Cultural and Community Engagement	
<b>Agency:</b>	Pete Suazo Utah Athletic Commission	
<b>Building:</b>	Highland Office	
<b>Street address:</b>	3760 S Highland Drive	
<b>City, state and zip:</b>	Millcreek, UT 84106	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Kristin Mead	218-393-2995	kristinmead@utah.gov

**Please address questions regarding information on this notice to the persons listed above.**

### General Information

#### 2. Rule or section catchline:

R457-1. Pete Suazo Utah Athletic Commission Act Rule

#### 3. Purpose of the new rule or reason for the change:

In the 2022 General Session, the Pete Suazo Athletic Commission (PSUAC) was moved from Governor's Office of Economic Opportunity (GOEO) to the Department of Cultural and Community Engagement (CCE). The existing Rule R359-1 will be repealed by GOEO, and filed by CCE as new Rule R457-1.

(EDITOR'S NOTE: The proposed repeal of Rule R359-1 is under ID 55450 in this issue, June 15, 2023, of the Bulletin.)

#### 4. Summary of the new rule or change:

This rule outlines the operating procedures and policies for the PSUAC.

### Fiscal Information

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

##### A) State budget:

The state budget for the PSUAC program is \$271,200 for FY24. There is no fiscal impact because the requirements listed in this new rule are the same as the ones that previously existed in Rule R359-1.

##### B) Local governments:

There is no fiscal impact because the requirements listed in this new rule are the same as the ones that previously existed in Rule R359-1.

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

There is no fiscal impact because the requirements listed in this new rule are the same as the ones that previously existed in Rule R359-1.

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

There is no fiscal impact because the requirements listed in this new rule are the same as the ones that previously existed in Rule R359-1.

##### 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**):

There is no fiscal impact because the requirements listed in this new rule are the same as the ones that previously existed in Rule R359-1.

#### 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. There is no fiscal impact because the requirements listed in this new rule are the same as the ones that previously existed in Rule R359-1.

#### 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	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Executive Director of Community and Cultural Engagement, Jill Love, 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:**

Sections 9-23-101 through 9-23-301		
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**Incorporations by Reference Information****7. Incorporations by Reference:**

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

<b>Official Title of Materials Incorporated (from title page)</b>	Unified Rules of Boxing
<b>Publisher</b>	Association of Boxing Commission and Combative Sports
<b>Issue Date</b>	August 3, 2016

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

<b>Official Title of Materials Incorporated (from title page)</b>	Unified Rules of Mixed Martial Arts
<b>Publisher</b>	Association of Boxing Commission and Combative Sports
<b>Issue Date</b>	August 1, 2019

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

<b>Official Title of Materials Incorporated (from title page)</b>	Unified Rules of Professional Kickboxing
<b>Publisher</b>	Association of Boxing Commission and Combative Sports
<b>Issue Date</b>	July 26, 2017

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

<b>Official Title of Materials Incorporated (from title page)</b>	Mixed Martial Arts Judging Criteria
<b>Publisher</b>	Association of Boxing Commission and Combative Sports
<b>Issue Date</b>	August 2, 2016

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

<b>Official Title of Materials Incorporated (from title page)</b>	Unified Rules Mixed Martial Arts Fouls
<b>Publisher</b>	Association of Boxing Commission and Combative Sports
<b>Issue Date</b>	2017

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

<b>Official Title of Materials Incorporated (from title page)</b>	PSUAC Unified Rules for Muay Thai
<b>Publisher</b>	Pete Suazo Utah Athletic Commission
<b>Issue Date</b>	2017

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

<b>Official Title of Materials Incorporated (from title page)</b>	International Kickboxing Federation Rules for Muay Thai
<b>Publisher</b>	International Kickboxing Federation
<b>Issue Date</b>	2023

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

<b>Official Title of Materials Incorporated (from title page)</b>	International Federation of Muay Thai Associations Rules for Muay Thai
<b>Publisher</b>	International Federation of Muay Thai
<b>Issue Date</b>	April 10, 2023

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	07/17/2023
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<b>9. This rule change MAY become effective on:</b>	07/25/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jill Love, Executive Director	<b>Date:</b>	05/30/2023
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**R457. Cultural and Community Engagement, Pete Suazo Utah Athletic Commission.****R457-1. Pete Suazo Utah Athletic Commission Act Rule.****R457-1-101. Title.**

This rule is known as the "Pete Suazo Utah Athletic Commission Act Rule."

**R457-1-102. Definitions.**

In addition to the definitions in Title 9, Chapter 23, the following definitions are adopted to this rule:

(1) For purposes of Section 9-23-304, "amateur boxing" means a live boxing contest conducted in accordance with the standards and regulations of USA Boxing, Inc., and in which the contestants participate for a non-cash purse.

(2) "Applicant" means an Organization Which Promotes Amateur Boxing in the State as defined in this section.

(3) "Boxing" means the sport of attack and defense using the fist, covered by an approved boxing glove.

(4) "Designated Commission member" means a member of the Commission designated as supervisor for a contest and responsible for the conduct of a contest, as assisted by other Commission members, Commission personnel, and others, as necessary and requested by the designated Commission member.

(5) "Drug" means a controlled substance, as defined in Title 58, Chapter 37, Utah Controlled Substances Act, or alcohol.

(6) "Elimination Tournament" means a contest involving unarmed combat in which contestants compete in a series of matches until not more than one contestant remains in any weight category.

(7) "Grant" means the Commission's distribution of monies as authorized under Subsection 9-23-304(3).

(8) "Organization Which Promotes Amateur Boxing in the State" means an amateur boxing club located within the state, registered with USA Boxing Incorporated.

(9) "State Fiscal Year" means the annual financial reporting period of the state, beginning July 1 and ending June 30.

(10) "Unprofessional conduct" is as defined in Subsection 9-23-101(25), and is defined further to include the following:

(a) as a promoter, failing to promptly inform the Commission of all matters relating to the contest;

(b) as a promoter, substituting a contestant in the 24 hours immediately preceding the scheduled contest without approval of the Commission;

(c) violating the rules for conduct of contests;

(d) testing positive for drugs or alcohol in a random body fluid screen before or after participation in any contest;

(e) testing positive for HIV, Hepatitis B or C;

(f) failing or refusing to comply with a valid order of the Commission or a representative of the Commission; and

(g) entering into a secret contract that contradicts the terms of the contracts filed with the Commission;

(h) providing false or misleading information to the Commission or a representative of the Commission;

(i) behaving at any time or place in a manner which is deemed by the Commission to reflect discredit to unarmed combat;

(j) engaging in any activity or practice that is detrimental to the best interests of unarmed combat;

(k) knowing that an unarmed contestant suffered a serious injury before a contest or exhibition and failing or refusing to inform the Commission about that serious injury; and

(l) conviction of a felony or misdemeanor, except for minor traffic violations.

(11) A "training facility" is a location where ongoing, scheduled training of unarmed combat contestants is held.

**R457-1-201. Authority - Purpose.**

The Commission adopts this rule under the authority of Sections 9-23-308 and 9-23-318, to enable the Commission to administer Title 9, Chapter 23. Title R457 is adopted to enable the Commission to implement Section 9-23-304 to facilitate the distribution of General Fund monies to Organizations Which Promote Amateur Boxing in the state.

**R457-1-202. Scope and Organization.**

Pursuant to Title 9, Chapter 23, general provisions codified in Sections R457-1-101 through R457-1-512 apply to all contests or exhibitions of "unarmed combat," as that term is defined in Subsection 9-23-101(23). Sections R457-1-601 through R457-1-623 shall apply only to contests of boxing, as defined in Subsection R457-1-102(1). Subsections R457-1-701 through R457-1-702 shall apply only to elimination tournaments, as defined in Subsection R457-1-102(4). Section R457-1-801 shall apply only to martial arts contests and exhibitions. Section R457-1-901 shall apply only to White-Collar Contests. The Sections R457-1-1001 through R457-1-1004 shall apply only to grants for amateur boxing.

**R457-1-203. Adoption of the "Unarmed Combat" Rules.**

(1) The Commission adopts and incorporates by reference the following unified rules for unarmed combat set forth by the Association of Boxing Commission and Combative Sports:

(a) Unified Rules of Boxing, approved August 3, 2016;

(b) Unified Rules of Mixed Martial Arts, approved August 1, 2019;

(c) Unified Rules of Professional Kickboxing, approved July 26, 2017;

(d) Mixed Martial Arts Judging Criteria, approved August 2, 2016; and

(e) Unified Rules Mixed Martial Arts Fouls, approved 2017.

(2) The Commission adopts and incorporates by reference the following rules, as they may be amended, for unarmed combat:

(a) PSUAC Unified Rules for Muay Thai, approved 2017;

(b) International Kickboxing Federation Rules for Muay Thai, 2023; and

(c) International Federation of Muaythai Associations Rules for Muay Thai, revised April 10, 2023.

(3) In advance of an event, the promoter shall identify to the Director the set of rules to which the entire event will adhere.

**R457-1-301. Qualifications for Licensure.**

(1) In accordance with Section 9-23-301, a license is required for a person to act as or represent that they are a:

(a) promoter;

- \_\_\_\_\_ (b) timekeeper;
- \_\_\_\_\_ (c) manager;
- \_\_\_\_\_ (d) contestant;
- \_\_\_\_\_ (e) second;
- \_\_\_\_\_ (f) matchmaker;
- \_\_\_\_\_ (g) referee; or
- \_\_\_\_\_ (h) judge.
- \_\_\_\_\_ (2) A licensed amateur contestant may not:
  - \_\_\_\_\_ (a) compete against a professional unarmed combat contestant;
  - \_\_\_\_\_ (b) receive a purse, or a percentage of ticket sales; or
  - \_\_\_\_\_ (c) other remuneration, other than for reimbursement for reasonable travel expenses and per diem, consistent with IRS guidelines.
- \_\_\_\_\_ (3) A licensed manager or contestant is prohibited from being a referee or judge for any event or contestant affiliated with a gym or training facility they have been involved with during the past 12 months.
- \_\_\_\_\_ (4) A promoter shall not hold a license as a referee, judge, second or contestant.

#### **R457-1-302. Licensing - Procedure.**

- \_\_\_\_\_ (1) In accordance with the authority granted in Section 9-23-308, the expiration date for licenses issued by the Commission shall be one year from the date of issuance.
- \_\_\_\_\_ (2) A contestant may designate a manager as outlined in Section R457-1-504.

#### **R457-1-401. Designation of Adjudicative Proceedings.**

- \_\_\_\_\_ (1) An adjudicative proceeding before the Commission of any of the following proceeding is designated as an informal adjudicative proceeding:
  - \_\_\_\_\_ (a) any action to revoke, suspend, restrict, place on probation or enter a reprimand as to a license;
  - \_\_\_\_\_ (b) approval or denial of applications for:
    - \_\_\_\_\_ (i) initial licensure;
    - \_\_\_\_\_ (ii) reinstatement of a license; and
    - \_\_\_\_\_ (iii) renewal of a license.
  - \_\_\_\_\_ (c) any proceeding conducted after the issuance of a cease and desist order;
  - \_\_\_\_\_ (d) the withholding of a purse by the Commission under Section 63N-10-313;
  - \_\_\_\_\_ (e) protests against the results of a contest.
- \_\_\_\_\_ (2) An individual may seek an adjudicated hearing before the Commission for the matters listed in Subsection (1) by submitting a written request to the Director within 30 days from the date of the action or result.
- \_\_\_\_\_ (3) Subject to the exception under Subsection 63G-4-202(3) or unless otherwise stipulated to, any other adjudicative proceeding before the Commission not specifically listed in under Subsection (1), is designated as an informal adjudicative proceeding.
- \_\_\_\_\_ (4) The Commission may designate any adjudicative proceeding as a formal adjudicated proceeding at the outset.
- \_\_\_\_\_ (5) The Commission may convert any informal adjudicative proceeding to a formal adjudicative proceeding, and any formal adjudicative proceeding to an informal adjudicative proceeding, in accordance with Section 63G-4-202.

#### **R457-1-402. Adjudicative Proceedings in General.**

- \_\_\_\_\_ (1) The procedure for an adjudicative proceeding is under Section 63G-4-203 for an informal adjudicative proceeding and

Section 63G-4-204 for a formal adjudicative proceeding; and this rule.

- \_\_\_\_\_ (2) Unless the Commission determines otherwise, the Commission shall be designated as the sole presiding officer in any adjudicative proceeding, and where applicable, serve as the fact finder in any adjudicative proceeding.

- \_\_\_\_\_ (3) A majority vote of the Commission shall constitute its decision. Orders of the Commission shall be signed by the Director or, in the Director's absence, the Chair of the Commission in accordance with Section 63G-4-208 for formal proceedings and Subsection 63G-4-203(1) for informal proceedings.

#### **R457-1-403. Additional Procedures for Immediate License Suspension.**

- \_\_\_\_\_ (1) Under Section 9-23-303, the designated Commission member, or in the absence of a designated Commission member the Director may issue an order immediately suspending the license of a licensee upon a finding that the licensee presents an immediate and significant danger to the licensee, other licensees, or the public.
- \_\_\_\_\_ (2) The suspension shall be at such time and for such period as the Commission believes is necessary to protect the health, safety, and welfare of the licensee, other licensees, or the public.
- \_\_\_\_\_ (3) A licensee whose license has been immediately suspended may, within 30 days after the decision of the designated Commission member, challenge the suspension by submitting a written request for a hearing to the Director. The Commission shall schedule the hearing as soon as is reasonably practical but before 30 days from the receipt of the written request, unless the Commission and the party requesting the hearing agree to conduct the hearing at a later date.

#### **R457-1-404. Evidentiary Hearings in Informal Adjudicative Proceedings.**

- \_\_\_\_\_ (1) A request for an evidentiary hearing in an informal adjudicative proceeding shall be submitted in writing no later than 20 days following the issuance of the Commission's notice of agency action if the proceeding was initiated by the Commission, or together with the request for agency action, if the proceeding was not initiated by the Commission, in accordance with the requirements set forth in the Utah Administrative Procedures Act, Title 63G, Chapter 4.
- \_\_\_\_\_ (2) Unless otherwise agreed upon by the parties, no evidentiary hearing shall be held in an informal adjudicative proceeding unless timely notice of the hearing has been served upon the parties as required by Subsection 63G-4-203(1)(d). Timely notice means service of a Notice of Hearing upon all parties no later than ten days before any scheduled evidentiary hearing.
- \_\_\_\_\_ (3) Parties shall be permitted to testify, present evidence, and comment on the issues at an evidentiary hearing in an informal adjudicative proceeding.

#### **R457-1-405. Reconsideration and Judicial Review.**

Agency review is not available as to any order or decision entered by the Commission. However, any person aggrieved by an adverse determination by the Commission may either seek reconsideration of the order pursuant to Section 63G-4-302 or seek judicial review of the order pursuant to Sections 63G-4-401 through 63G-4-404.

#### **R457-1-501. Promoter's Responsibilities in Arranging a Contest.**

- \_\_\_\_\_ (1) Before a licensed promoter may hold a contest or single contest as part of a single promotion, the promoter shall file with the Commission an application for a permit to hold the contest not less

than 15 days before the date of the proposed contest, or not less than seven days for televised contests.

(2) The application shall include the date, time, and place of the contest as well as information concerning the on-site emergency facilities, personnel, and transportation.

(3) The permit application must be accompanied by a contest registration fee determined by the Department under Section 63J-1-504.

(4) Before a permit to hold a contest is granted, the promoter shall post a surety bond with the Commission in the amount of \$20,000, or total sum of the contestant purses, official's fees and estimated Commission fees, whichever is greater. Promoters who have held less than five unarmed combat events in the state shall deposit an additional \$20,000 minimum Cashier's Check or Bank Draft with the Commission no later than seven days before the event or the event may be canceled by the Commission.

(5) Before the scheduled time of the contest, the promoter shall have available for inspection the completed physical facilities which will be used directly or indirectly for the contest. The designated Commission member shall inspect the facilities in the presence of the promoter or the promoter's authorized representative, and all deficiencies cited upon inspection shall be corrected before the contest.

(6) A promoter shall be responsible for verifying the identity, record, and suspensions of each contestant. A promoter shall be held responsible for the accuracy of the names and records of each of the participating contestants in all publicity or promotional material.

(7) A promoter shall be held responsible for a contest in which one of the contestants is disproportionately outclassed.

(8) Before a contest begins, the promoter shall give the designated Commission member the funds necessary for payment of contestants, referees, judges, timekeeper and the attending physicians. The designated Commission member shall pay each contestant, referee, and judge in the presence of one witness.

(9) A promoter may be not under the influence of alcohol or controlled substances:

(a) during the contest;

(b) until all contestants are paid; and

(c) until all applicable fees are paid to the Commission, officials and ringside physician.

(10) The promoter shall be responsible for payment of any Commission fees deducted from a contestant's purse, if the fees are not collected directly from the contestant at the conclusion of the bout or if the contestant fails to compete in the event.

(11) At the time of an unarmed combat contest weigh-in, the promoter of a contest shall provide primary insurance coverage for each uninsured contestant and secondary insurance for each insured contestant in the amount of \$10,000 for each licensed contestant to provide medical, surgical and hospital care for licensed contestants who are injured while engaged in a contest or exhibition:

(a) The term of the insurance coverage must not require the contestant to pay a deductible for the medical, surgical or hospital care for injuries the contestant sustains while engaged in a contest or exhibition.

(b) If a licensed contestant pays for the medical, surgical or hospital care for injuries sustained during a contest or exhibition, the insurance proceeds must be paid to the contestant or the contestant's beneficiaries as reimbursement for the payment.

(c) The promoter shall also provide life insurance coverage of \$10,000 for each contestant in case of death resulting from injuries sustained during a contest or exhibition.

(d) The required medical insurance and life insurance coverage shall not be waived by the contestant or any other party.

(e) A contestant seeking medical insurance reimbursement for injuries sustained during an unarmed combat event shall obtain medical treatment for their injuries within 72 hours of their bout and maintain written records of their treatment, expenses and correspondence with the insurance provider and promoter to ensure coverage.

(f) The promoter shall not delay or circumvent the timely processing of a claim submitted by a contestant injured during a contest or exhibition.

(12) In addition to the payment of any other fees and money due under this part, the promoter shall pay the following event fees:

(a) The event attendance fee established in the adopted Fee Schedule on the date of the event.

(b) 3% of the first \$500,000, and 1% of each of the next \$1,000,000 increments, of the total gross receipts from the sale, lease, or other exploitation of internet, broadcasting, television, and motion picture rights for any contest or exhibition thereof, without any deductions for Commissions, brokerage fees, distribution fees, advertising, contestants' purses or any other expenses or charges, except in no case shall the fee be more than \$50,000. These fees shall be paid to the Commission within 45 days of the event. The promoter shall notify and provide the Commission with certified copies of any contracts, agreements or transfers of any internet, broadcasting, television, and motion picture rights for any contest or exhibition within seven days of any such agreements. The Commission may require a surety deposit to be provided to the Commission to ensure these requirements are met.

(c) The applicable fees assessed by the Association of Boxing Commission designated official record keeper, if not previously paid by the promoter.

(d) The Commission may exempt from the payment of all or part of the assessed fees under this section for a special contest or exhibition based on factors which include:

(i) a showcase event promoting a greater interest in contests in the state;

(ii) attraction of the optimum number of spectators;

(iii) costs of promoting and producing the contest or exhibition;

(iv) ticket pricing;

(v) committed promotions and advertising of the contest or exhibition;

(vi) rankings and quality of the contestants;

(vii) committed television and other media coverage of the contest or exhibition; and

(viii) contribution to a 501(c)(3) charitable organization.

#### **R457-1-502. Ringside Requirements and Equipment.**

(1) Each promoter shall provide all the following:

(a) Commission-approved gloves in whole, clean and in sanitary condition for each contestant;

(b) stools for use by the seconds;

(c) rubber gloves for use by the referees, seconds, ringside physicians, and Commission representatives;

(d) a stretcher, which shall be available near the ring and near the ringside physician;

(e) a portable resuscitator with oxygen;

(f) seats at ringside for the assigned officials;

(g) seats at ringside for the designated Commission member;

(h) ring, cage, cleaning supplies, including bucket, towels and disinfectant;

(i) a public address system;

(j) a separate dressing room for each sex, if contestants of both sexes are participating;

(k) a separate room for physical examinations;

(l) a separate dressing room shall be provided for officials, unless the physical arrangements of the contest site make an additional dressing room impossible;

(n) adequate security personnel who are either licensed as a security guard by the Division of Professional Licensing, or who are off duty police officers; and

(o) sufficient bout sheets for ring officials and the designated Commission member.

(2) An ambulance with attendants will be on site at all times when contestants are competing. Arrangements shall be made for a replacement ambulance if the first ambulance is required to transport a contestant for medical treatment. The location of the ambulance and the arrangements for the substitute ambulance service shall be communicated to the physician

(3) A promoter shall only hold contests in facilities that conform to the laws, ordinances, and regulations regulating the county, city, town, or village where the bouts are situated.

(4) Restrooms shall not be used as dressing rooms, for physical examinations or weigh-ins.

#### **R457-1-503. Contracts.**

(1) Pursuant to Section 9-23-312, a copy of the contract between a promoter and a contestant shall be filed with the Commission before a contest begins. The contract that is filed with the Commission shall embody all agreements between the parties.

(2) A contestant's manager may sign a contract on behalf of the contestant. If a contestant does not have a licensed manager, the contestant shall sign the contract.

(3) A contestant shall use the contestant's own legal name to sign a contract. However, a contestant who is licensed under another name may sign the contract using the contestant's licensed name if the contestant's legal name appears in the body of the contract as the name under which the contestant is legally known.

(4) The contract between a promoter and a contestant shall be for the use of the contestant's skills in a contest and shall not require the contestant to sell tickets to be paid for the contestant's services.

#### **R457-1-504. Manager.**

(1)(a) Managers, as designated by the contestant and applicant, shall be granted the ability to submit and request transfer of medical records between athletic Commissions for licensure within the Association of Boxing Commission recognized Commissions.

(b) This does not grant managers access to medical records with the Commission licensing system.

(2) To obtain a manager license, an applicant must:

(a) file an affidavit with the Commission to recognize the manager, signed by both parties; and

(b) submit the License application fee as set forth by the Commission Fee Schedule adopted on February 24, 2017.

#### **R457-1-505. Complimentary Tickets.**

(1) Limitation on issuance, calculation of price, and service charge for payment to contestant working on percentage basis.

(a) A promoter may not issue complimentary tickets for more than 4% of the seats in the house without the Commission's written authorization. The Commission shall not consider complimentary tickets which it authorizes under this section to constitute part of the total gross receipts from admission fees for the purposes of calculating the license fee prescribed in Section 9-23-304.

(b) If complimentary tickets are issued for more than 4% of the seats in the house, each contestant who is working on a percentage basis shall be paid a percentage of the normal price of all complimentary tickets more than 4% of the seats in the house, unless the contract between the contestant and the promoter provides otherwise and stipulates the number of complimentary tickets which will be issued. In addition, if a service fee is charged for complimentary tickets, the contestant may be paid a percentage of that service fee, less any deduction for federal taxes and fees.

(c) Pursuant to Section 9-23-304 a promoter shall file, within 10 days after the contest, a report indicating how many complimentary tickets the promoter issued and the value of those tickets.

(2) Complimentary ticket and tickets at reduced rate, persons entitled or allowed to receive such tickets, duties of promoter, disciplinary action, fees and taxes.

(a) Each promoter shall provide tickets without charge to the following persons who shall not be liable for the payment of any fees for those tickets:

(i) the Commission members, Director and representatives;

(ii) principals and seconds who are engaged in a contest or exhibition which is part of the program of unarmed combat; and

(iii) holders of lifetime passes issued by the Commission, and any lifetime passes shall be subject to the following:

(A) shall be approved subject to the discretion of the Commission;

(B) notify the Director of their intent to attend an event;

(C) promoter shall arrange seating;

(D) any Commission Member or Executive Director may nominate an individual;

(E) may be revoked by a majority vote of the Commission.

(b) Each promoter may provide tickets without charge or at a reduced rate to the following persons who shall be liable for payment of applicable fees on the reduced amount paid, unless the person is a journalist, police officer or firefighter as provided in this subsection:

(i) any of the promoter's employees, and if the promoter is a corporation, to a director or officer who is regularly employed or engaged in promoting programs of unarmed combat, regardless of whether the Director or officer's duties require admission to the particular program and regardless of whether the Director or officer is on duty at the time of that program;

(ii) employees of the Commission;

(iii) a journalist who is performing a journalist's duties; and

(iv) a firefighter or police officer that is performing the duties of a firefighter or police officer.

(c) Each promoter shall perform the following duties in relation to the issuance of complimentary tickets or those issued at a reduced price:

(i) each ticket issued to a journalist shall be clearly marked "PRESS." No more tickets may be issued to journalists than will permit comfortable seating in the press area;

(ii) seating at the press tables or in the press area must be limited to journalists who are actually covering the contest or exhibition and to other persons designated by the Commission;

(iii) a list of passes issued to journalists shall be submitted to the Commission before the contest or exhibition;

(iv) only one ticket may be sold at a reduced price to any manager, second, contestant or other person licensed by the Commission;

(v) any credential issued by the promoter which allows an admission to the program without a ticket, shall be approved in advance by a member of the Commission or the Director; and

(iv) request for the issuance of such credentials shall be made at least 5 hours before the first contest or exhibition of the program.

(d) Admission of any person who does not hold a ticket or who is not specifically exempted pursuant to this section is grounds for suspension or revocation of the promoter's license or for the assessment of a penalty.

(e) The Commission shall collect all fees and taxes due on any ticket that is not specifically exempt pursuant to this section, and for any person who is admitted without a ticket in violation of this section.

(3) Reservation of area for use by Commission. For every program of unarmed combat, the promoter of the program shall reserve seats at ringside for use by the designated Commission member and Commission representatives.

#### **R457-1-506. Physical Examination - Physician.**

(1) Not less than one hour before a contest, each contestant shall be given a medical examination by a physician who is appointed by the designated Commission member. The examination shall include a detailed medical history and a physical examination of all the following:

- (a) eyes;
- (b) teeth;
- (c) jaw;
- (d) neck;
- (e) chest;
- (f) ears;
- (g) nose;
- (h) throat;
- (i) skin;
- (j) scalp;
- (k) head;
- (l) abdomen;
- (m) cardiopulmonary status;
- (n) neurological, musculature, and skeletal systems;
- (o) pelvis; and
- (p) the presence of controlled substances in the body.

(2) If after the examination the physician determines that a contestant is unfit for competition, the physician shall notify the Commission of this determination, and the Commission shall prohibit the contestant from competing.

(3) The physician shall provide a written certification of those contestants who are in good physical condition to compete.

(4) Before a bout, a female contestant shall provide the ringside physician with the results of a pregnancy test performed on the contestant within the previous 14 days. If the results of the pregnancy test are positive, the physician shall notify the Commission, and the Commission shall prohibit the contestant from competing.

(5) A contestant who has had cardiac surgery shall not be issued a license unless the contestant is certified as fit to compete by a cardiovascular surgeon.

(6) A contest shall not begin until a physician and an attended ambulance are present. The physician shall not leave until the decision in the final contest has been announced and all injured contestants have been attended to.

(7) The contest shall not begin until the physician is seated at ringside. The physician shall remain at that location for the entire fight, unless it is necessary for the physician to attend to a contestant.

#### **R457-1-507. Drug Testing.**

In accordance with Section 9-23-309, the following shall apply to drug testing:

(1) The administration of or use of any:

- (a) alcohol;
- (b) illicit drug;
- (c) stimulant; or
- (d) drug or injection that has not been approved by the Commission, including the drugs or injections listed by The Association of Boxing Commission for Boxing and Mixed Martial Arts in any part of the body, either before or during a contest or exhibition, to or by any unarmed combatant, is prohibited.

(2) The following types of drugs, injections or stimulants are prohibited for any unarmed combatant pursuant to Subsection R457-1-506(1):

(a) Afrinol or any other product that is pharmaceutically similar to Afrinol.

(b) Co-Tylenol or any other product that is pharmaceutically similar to Co-Tylenol.

(c) A product containing an antihistamine and a decongestant.

(d) A decongestant other than a decongestant listed in Subsection R457-1-506(4).

(e) Any over-the-counter drug for colds, coughs or sinuses. This subsection includes Ephedrine, Phenylpropanolamine, and Mahuang and derivatives of Mahuang.

(f) Any drug or substance identified on the World Anti-Doping Code International Standard Prohibited List, effective January 1, 2023, published by the World Anti-Doping Agency, which is incorporated by reference. The Prohibited List may be obtained, free of charge, at [www.wada-ama.org](http://www.wada-ama.org).

(g) World Anti-Doping Agency (WADA) thresholds will be recognized as the standard level on prohibited substances unless otherwise prescribed by the Commission rules.

(3) The following types of drugs or injections are not prohibited, but their use is discouraged by the Commission for any unarmed combatant:

- (a) Aspirin and products containing aspirin.
- (b) Nonsteroidal anti-inflammatories.

(4) The following types of drugs or injections are accepted by the Commission:

- (a) Antacids, such as Maalox.
- (b) Antibiotics, antifungals or antivirals that have been prescribed by a physician.
- (c) Antidiarrheals, such as Imodium, Kaopectate or Pepto-Bismol.

(d) Antihistamines for colds or allergies, such as Bromphen, Brompheniramine, Chlorpheniramine Maleate, Chlor-Trimeton, Dimetane, Hismal, PBZ, Seldane, Tavist-1 or Teldrin.

(e) Antinauseants, such as Dramamine or Tigan.

(f) Antipyretics, such as Tylenol.

(g) Antitussives, such as Robitussin, if the antitussive does not contain codeine.

(h) Antiulcer products, such as Carafate, Pepcid, Reglan, Tagamet or Zantac.

(i) Asthma products in aerosol form, such as Brethine, Metaproterenol, Alupent, Salbutamol, Albuterol, Proventil or Ventolin.

(j) Asthma products in oral form, such as Aminophylline, Cromolyn, Nasalide or Vancril.

(k) Ear products, such as Auralgan, Cerumenex, Cortisporin, Debrox or Vosol.

(l) Hemorrhoid products, such as Anusol-HC, Preparation H or Nupercainal.

(m) Laxatives, such as Correctol, Doxidan, Dulcolax, Efferyllium, Ex-Lax, Metamucil, Modane or Milk of Magnesia.

(n) Nasal products, such as AYR Saline, HuMist Saline, Ocean or Salinex.

(o) The following decongestants:

(i) Afrin;

(ii) Oxymetazoline HCL Nasal Spray; or

(iii) Any other decongestant that is pharmaceutically similar to the decongestants in this subsection.

(5) At the request of the Commission, the designated Commission member, or the ringside physician, a licensee shall submit to a test of body fluids to determine the presence of drugs or other prohibited substances. A licensee shall give an adequate sample, or it will be considered a denial. The promoter shall be responsible for any costs of testing.

(6) If the test results in a finding of the presence of a prohibited substance or metabolite or if the licensee is unable or unwilling to provide a sample of body fluids for such a test within 60 minutes of notification, the Commission may take one or more of the following actions:

(a) immediately suspend the licensee's license in accordance with Section R457-1-403;

(b) stop the contest in accordance with Section 9-23-309;

(c) initiate other appropriate licensure action in accordance with Section 9-23-303; or

(d) withhold the contestant's purse in accordance with Section 9-23-313.

(7) A contestant who is disciplined pursuant to this rule and who was the winner of a contest shall be disqualified and the decision of the contest shall be changed to "no contest" and shall be fined a minimum of their win bonus.

(8) Unless the Commission determines otherwise at a scheduled meeting, a licensee who tests positive for prohibited substances or their metabolites shall be penalized as follows:

(a) First offense - 180 day suspension.

(b) Second offense - 1 year suspension, and mandatory completion of a supervisory treatment program approved by the Commission that licensed the event.

(c) Third offense - 2 year suspension, and mandatory completion of a supervisory treatment program approved by the Commission that licensed the event.

(d) Failure by the contestant to fully disclose all medications taken within 30 days of their pre-fight physical, before their bout, shall be deemed unprofessional conduct and double the length of any applicable suspension, or any other combination of remedies as defined by the Commission based upon mitigating or aggravating circumstances.

(9) Medical Cannabis. A Contestant who for the first-time tests positive for medical cannabis above the threshold level set by USADA/WADA (15ng/mL) shall be fined not more than \$100. The fine shall escalate to \$200 if in the future, a contestant again tests positive for cannabis above the threshold.

(10) Therapeutic Use Exemptions (TUEs).

(a) An applicant or licensee who believes the applicant has a therapeutic reason to use a substance described in Subsection R457-1-506(2) may apply in advance using a form approved by the Director, for a TUE to permit continued use of that substance. The Director may approve an application for a TUE for medical cannabis prescribed by a qualified medical provider who is registered in accordance with the Utah Medical Cannabis Act, or if a contestant is a resident of another state, then medical cannabis prescribed as allowed by the statute of another state. For all other substance, an application may only be granted by the Commission itself after a public hearing. The applicant or licensee shall submit the request in writing to the Commission. The request shall be accompanied by supporting medical information sufficient to allow the Commission to determine whether to grant their request. In reaching its decision, the Commission will, at a minimum, determine whether all the following criteria have been met:

(i) The applicant or licensee would experience a significant impairment to health if the prohibited substance were to be withheld in the course of treating an acute or chronic medical condition;

(ii) The therapeutic use of the prohibited substance would produce no additional enhancement of performance other than that which might be anticipated by a return to a state of normal health following the treatment of a legitimate medical condition;

(iii) The Use of any Prohibited Substance or Prohibited Method to increase "low-normal" levels of any endogenous hormone is not considered an acceptable Therapeutic intervention;

(iv) Either reasonable therapeutic alternatives to the use of the otherwise prohibited substance have been tried or no reasonable alternative exists; and

(v) The necessity for the use of the otherwise prohibited substance is not a result, wholly or in part, of a prior non-therapeutic use of any substance described in Subsection R457-1-506(2).

(b) The Commission may, in its sole discretion, either grant or deny the request or refer the request to the Voluntary Anti-Doping Association (VADA) or similar evaluating body for a recommendation. The evaluating body shall obtain such evaluation and expert consultation as the body deems necessary. The evaluating body shall present the Commission with a written recommendation and a detailed basis for that recommendation.

(c) The applicant shall be responsible to pay any costs associated with the TUE evaluation and all subsequent mandated compliance testing.

(d) The TUE shall be canceled, if:

(i) The contestant does not promptly comply with any requirements or conditions imposed by the Commission.

(ii) The term for which the TUE was granted has expired.

(iii) The contestant is advised that the TUE has been withdrawn by the Commission.

(11) Failure to disclose the use of a substance described in Subsection R457-1-506(2) constitutes unprofessional conduct and subject to additional disciplinary action under Section 9-23-303.

**R457-1-508. HIV Testing.**

In accordance with Subsection 9-23-309(1)(a), contestants shall produce evidence of a clear test for HIV as a condition to participation in a contest as follows:



(1) All contestants shall provide evidence in the form of a competent laboratory examination certificate verifying that the contestant is HIV negative at the time of the weigh-in.

(2) The examination certificate shall certify that the HIV test was completed within 180 days before the contest.

(3) Any contestant whose HIV test is positive shall be prohibited from participating in a contest.

**R457-1-509. Hepatitis B Surface Antigen (HBsAg) and Hepatitis C Virus (HCV) Antibody Testing.**

In accordance with Subsection 9-23-309(1)(c) contestants shall produce evidence of a negative test for HBsAg and HCV antibody as a condition to participation in a contest as follows:

(1) All contestants shall provide evidence in the form of a competent laboratory examination certificate verifying that the contestant is negative at the time of the weigh-in.

(2) The examination certificate shall certify that the HBsAg and HCV antibody testing was completed within one year before the contest. The period may be reduced by the Commission to protect public safety in the event of an outbreak.

(3) Any contestant whose HBV or HCV result is positive shall be prohibited from participating in a contest.

(4) In lieu of a negative HBsAg test result, a contestant may present laboratory testing evidence of immunity against Hepatitis B virus based on a positive Hepatitis B surface antibody (anti-HBs) test result or of having received the complete Hepatitis B vaccine series as recommended by the Advisory Committee on Immunization Practices.

**R457-1-510. Contestant Use or Administration of Any Substance.**

(1) The use or administration of drugs, stimulants, or non-prescription preparations by or to a contestant during a contest is prohibited, except as provided by this rule.

(2) The giving of substances other than water to a contestant during the contest is prohibited.

(3) The discretionary use of petroleum jelly may be allowed, as determined by the referee.

(4) The discretionary use of coagulants, adrenaline 1/1000, avetine, and thrombin, as approved by the Commission, may be allowed between rounds to stop the bleeding of minor cuts and lacerations sustained by a contestant.

(i) The use of Monsel's solution, silver nitrate, flex collodion also known as new skin, or substances having an iron base is prohibited;

(ii) The use of any such substance by a contestant is cause for immediate disqualification.

(5) The ringside physician shall monitor the use and application of any foreign substances administered to a contestant before or during a contest and shall confiscate any suspicious foreign substance for possible laboratory analysis, the results of which shall be forwarded to the Commission.

**R457-1-511. Weighing-In.**

(1) Unless otherwise approved by the Commission for a specific contest, the weigh-in shall occur not less than six nor more than 36 hours before the start of a contest. The designated Commission member or authorized Commission representative shall weigh-in each contestant in the presence of other contestants.

(2) Contestants shall be licensed when they are weighed in.

(3) Only contestants who have been previously approved for the contest shall be permitted to weigh in.

(4) Each contestant must weigh in, in the presence of the contestant's opponent, a representative of the Commission and an official representing the promoter, on scales approved by the Commission at any place designed by the Commission.

(5) The contestant must have all weights stripped from the contestant's body before the contestant is weighed, but may wear shorts. Contestants are permitted to wear a singlet or sports bra for modesty.

(6) The Commission may require contestants to be weighted more than once for any cause deemed sufficient by the Commission.

(7) A contestant who fails to make the weight agreed upon in the contestant's bout agreement forfeits:

(a) 25% of the contestant's purse if no lesser amount is set by the Commission's representative; or

(b) a lesser amount set by the secretary and approved by the Commission, unless the weight difference is 1 pound or less.

**R457-1-512. Event Officials.**

(1) Selection and approval of event officials for a contest, bout, program, match, or exhibition.

(a) The event officials are the referees, judges, timekeeper and physicians.

(b) Any event official participating in a contest, bout, match or exhibition must obtain the approval of the Commission.

(c) The Commission shall decide the number of officials assigned to the event based on the number of rounds, bouts or championship bouts.

(d) The number of event officials required or the substitution of officials for any reason or at any time during the event shall be solely within the power and discretion of the Commission.

(2) Event officials are prohibited from being under the influence of alcohol and illicit drugs.

(a) At the request of the Commission, an event official shall submit to a test of body fluids to determine the presence of prohibited drugs or alcohol.

(i) The event official shall give an adequate sample or it will be considered a denial and prohibited from participating in future events.

(ii) The promoter shall be responsible for any costs of testing.

(b) Unless the Commission determines otherwise at a scheduled meeting, an event official who tests positive for alcohol or illegal drugs shall be penalized as follows:

(i) First offense - 180 day prohibition from participating in unarmed combat events.

(ii) Second offense - 1 year prohibition from participating in unarmed combat events.

(iii) Third offense - 2 year prohibition from participating in unarmed combat events.

(3) Event officials shall be stationed at places designated by the Commissioner in Charge or Director.

(4) Referees, judges, timekeepers, and physicians shall be independent contractors of the Commission.

(5) The Judges, Referees and Timekeepers officiating at any event, bout, program, match, or exhibition shall be paid by the licensed promoter for the event in accordance with the Fee Schedule approved by the Commission.

(6) The promoter shall pay to the Commission the total fees set by the Commission for all officials whom the Commission approves to officiate in a contest or exhibition.

(7) Event Officials' Minimum Fee Schedule: Refer to Fee Schedule approved by the Commission on 2-24-2017.

(8) If any licensee of the Commission protests the assignment of a referee or judge, the matter will be reviewed by two Commissioners or a Commissioner and the Commission Director or Chief Inspector to make such disposition of the protest as the facts may justify. Protests not made in a timely manner may be denied.

#### **R457-1-513. Announcer.**

(1) The promoter will select the event announcer.

(2) At the beginning of a contest, the announcer shall announce that the contest is under the auspices of the Commission.

(3) The announcer shall announce the names of the referee, judges, and timekeeper when the competitions are about to begin, and any changes made in officials as the contest progresses.

(4) The announcer shall announce the names of all contestants, their weight, professional record, their city and state of residence, and country of origin if not a citizen.

(3) An announcer shall not engage in unprofessional conduct.

(4) The announcer is prohibited from being under the influence of alcohol or illicit drugs.

(a) At the request of the Commission, an announcer shall submit to a test of body fluids to determine the presence of drugs or alcohol.

(i) The event official shall give an adequate sample or it will be considered a denial and the official shall be prohibited from participating in future events.

(ii) The promoter shall be responsible for any costs of testing.

(b) Unless the Commission determines otherwise at a scheduled meeting, an announcer who tests positive for alcohol or illegal drugs shall be penalized as follows:

(i) First offense - 180 day prohibition from participating in unarmed combat events.

(ii) Second offense - 1 year prohibition from participating in unarmed combat events.

(iii) Third offense - 2 year prohibition from participating in unarmed combat events.

#### **R457-1-514. Timekeeper.**

(1) A timekeeper shall indicate the beginning and end of each round by the gong.

(2) A timekeeper shall have an alerting device and a stopwatch.

(3) Ten seconds before the beginning of each round, the timekeeper shall warn the contestants of the time by sounding the alert device.

(4) If a contest terminates before the scheduled limit of rounds, the timekeeper shall inform the announcer of the exact duration of the contest.

(5) The timekeeper shall keep track of and record the exact amount of time that any contestant remains on the canvas.

#### **R457-1-515. Stopping a Contest.**

In accordance with Sections 9-23-318 and 9-23-303, authority for stopping a contest is defined, clarified or established as follows.

(1) The referee may stop a contest to ensure the integrity of a contest or to protect the health, safety, or welfare of a contestant or the public for any one or more of the following reasons:

(a) injuries, cuts, or other physical or mental conditions that would endanger the health, safety, or welfare of a contestant if the contestant were to continue with the competition;

(b) one-sided nature of the contest;

(c) refusal or inability of a contestant to reasonably compete; and

(d) refusal or inability of a contestant to comply with the rules of the contest.

(2) If a referee stops a contest, the referee shall disqualify the contestant, where appropriate, and recommend to the designated Commission member that the purse of that professional contestant be withheld pending an impoundment decision in accordance with Section 9-23-313.

(3) The designated Commission member may stop a contest at any stage in the contest when there is a significant question with respect to the contest, the contestant, or any other licensee associated with the contest, and determine whether the purse should be withheld pursuant to Section 9-23-313.

#### **R457-1-516. Ringside Physician.**

(1) "Ringside Physician" as used in this section, means a physician who is approved by the Commission to attend boxing and martial arts contests as required by Section R457-1-506.

(2) Ringside physicians shall meet all the following criteria:

(a) Have a current and unrestricted license issued by the Utah Division of Professional Licensing.

(i) Shall complete a license application; and

(ii) Submit the fee set forth in the License Fee Schedule, annually.

(b) Ringside Physicians who have not previous been approved as a ringside physician:

(i) shall hold staff privileges in medicine, surgery, or emergency medicine in a general acute care facility accredited by the Joint Commission on Accreditation of Health Organizations;

(ii) Attend a ringside physician training clinic before a licensure; and

(iii) Be precepted by two contests by a ringside physician. The preceptee may act as the second physician in attendance at a contest.

#### **R457-1-517. Competing in an Unsanctioned Unarmed Combat Event.**

(1) The Commission shall deny issuing a license to a contestant who has competed in an unarmed combat event not sanctioned by an Association of Boxing Commission (ABC) member Commission for a period of 60 days from the date of the event.

(2) Unarmed combat contestants who are currently licensed by the Commission shall not be approved to compete in an unarmed combat event until 60 days from the date of their last competition in an unarmed combat event not sanctioned by an ABC member Commission.

(3) After competing in an unsanctioned unarmed combat event, a contestant must submit new blood tests results drawn within 30 days of their scheduled event.

#### **R457-1-601. Boxing - Contest Weights and Classes.**

(1) Boxing weights and classes are established as follows:

- (a) Strawweight: up to 105 lb. (47.627 kgs.);
- (b) Light-Flyweight: over 105 to 108 lb. (47.627 to 48.988 kgs.);
- (c) Flyweight: over 108 to 112 lb. (48.988 to 50.802 kgs.);
- (d) Super Flyweight: over 112 to 115 lb. (50.802 to 52.163 kgs.);
- (e) Bantamweight: over 115 to 118 lb. (52.163 to 53.524 kgs.);
- (f) Super Bantamweight: over 118 to 122 lb. (53.524 to 55.338 kgs.);
- (g) Featherweight: over 122 to 126 lb. (55.338 to 57.153 kgs.);
- (h) Super Featherweight: over 126 to 130 lb. (57.153 to 58.967 kgs.);
- (i) Lightweight: over 130 to 135 lb. (58.967 to 61.235 kgs.);
- (j) Super Lightweight: over 135 to 140 lb. (61.235 to 63.503 kgs.);
- (k) Welterweight: over 140 to 147 lb. (63.503 to 66.678 kgs.);
- (l) Super Welterweight: over 147 to 154 lb. (66.678 to 69.853 kgs.);
- (m) Middleweight: over 154 to 160 lb. (69.853 to 72.574 kgs.);
- (n) Super Middleweight: over 160 to 168 lb. (72.574 to 76.204 kgs.);
- (o) Light-heavyweight: over 168 to 175 lb. (76.204 to 79.378 kgs.);
- (p) Cruiserweight: over 175 to 200 lb. (79.378 to 90.80 kgs.); and

(q) Heavyweight: all over 200 lb. (90.80 kgs.).

(2) A contestant shall not fight another contestant who is outside of the contestant's weight classification unless prior approval is given by the Commission.

(3) A contestant who has contracted to box in a given weight class shall not be permitted to compete if the contestant exceeds that weight class at the weigh-in, unless the contract provides for the opposing contestant to agree to the weight differential. If the weigh-in is held the day before the contest and if the opposing contestant does not agree or the contract does not provide for a weight exception, the contestant may have two hours to try to lose not more than three pounds to be reweighed.

(4) The Commission will not allow a contest in which the contestants are not fairly matched. In determining if contestants are fairly matched, the Commission shall consider all the following factors with respect to the contestant:

- (a) the win-loss record of the contestants;
- (b) the weight differential;
- (c) the caliber of opponents;
- (d) each contestant's number of fights; and
- (e) previous suspensions or disciplinary actions.

#### **R457-1-602. Boxing - Number of Rounds in a Bout.**

(1) A contest bout shall consist of not less than four and not more than 12 scheduled rounds.

(a) Three minutes of boxing shall constitute a round for men's boxing;

(b) Two minutes shall constitute a round for women's boxing;

(c) There shall be a rest period of one minute between the rounds.

(2) A promoter shall contract with enough contestants to provide a program consisting of at least 30 and not more than 56 scheduled rounds of boxing, unless otherwise approved by the Commission.

#### **R457-1-603. Boxing - Ring Dimensions and Construction.**

(1) The ring shall be square, and the sides shall not be less than 16 feet nor more than 22 feet.

(2) The ring floor shall:

(a) extend not less than 18 inches beyond the ropes; and

(b)(i) be padded with a base not less than 5/8 of an inch of ensolite or another similar closed-cell foam; and

(ii) the padding shall extend beyond the ring ropes and over the edge of the platform, and shall be covered with canvas, duck, or a similar material that is tightly stretched and laced securely in place; and

(c) not be more than four feet above the floor of the building;

(d) have two sets of suitable stairs for the use of contestants, with an extra set of suitable stairs to be used for any other activities that may occur between rounds; and

(e) not have less than four ring ropes which can be tightened, and which are not less than one inch in diameter; and

(i) ring posts shall be made of metal and shall be not less than three nor more than four inches in diameter, extending a minimum of 58 inches above the ring floor and be at least 18 inches away from the ropes;

(ii) ring posts shall be wrapped in a soft material;

(iii) the turnbuckles shall be covered with protective padding;

(iv) ring posts shall have two spacer ties on each side of the ring to secure the ring ropes; and

(v) the lower ring rope shall be 18 inches above the ring floor; and

(f) have corner pads in each corner.

#### **R457-1-604. Boxing - Gloves.**

(1) A contestant's gloves shall be examined before a contest by the referee and the designated Commission member. If gloves are found to be broken or unclear or if the padding is found to be misplaced or lumpy, they shall be changed before the contest begins.

(2) A promoter shall be required to have on hand an extra set of gloves that are to be used if a contestant's gloves are broken or damaged during a contest.

(3) Gloves for a main event may be put on in the ring after the referee has inspected the bandaged hands of both contestants.

(4) The laces shall be tied on the outside of the back of the wrist of the gloves and shall be secured. The tips of the laces shall be removed.

#### **R457-1-605. Boxing - Bandage Specification.**

(1) Except as agreed to by the managers of the contestants opposing each other in a contest, a contestant's bandage for each hand shall consist of soft gauze not more than 20 yards long and not more than two inches wide. The gauze shall be held in place by not more than eight feet of adhesive tape not more than one and one-half inches wide. The adhesive tape must be white or a light color.

(2) Bandages shall be adjusted in the dressing room under the supervision of the designated Commission member.

(3) The use of water or any other substance other than medical tape on the bandages is prohibited.

(4) The bandages and adhesive tape may not extend to the knuckles, and must remain at least three-fourths of an inch away from the knuckles when the hand is clenched to make a fist.

#### **R457-1-606. Boxing - Mouthpieces.**

A round shall not begin until the contestant's form-fitted protective mouthpiece is in place. If, during a round, the mouthpiece falls out of the contestant's mouth, the referee shall, as soon as practicable, stop the bout and escort the contestant to that contestant's corner. The mouthpiece shall be rinsed out and replaced in the contestant's mouth and the contest shall continue. If the referee determines that the contestant intentionally spit the mouthpiece out, the referee may direct the judges to deduct points from the contestant's score for the round.

#### **R457-1-607. Boxing - Contest Officials.**

(1) The officials for each boxing contest shall consist of not less than the following:

(a) one referee;

(b) three judges;

(c) one timekeeper; and

(d) one physician licensed in good standing in Utah.

(2) A licensed referee, judge, or timekeeper shall not officiate at a contest that is not conducted under the authority or supervision of the designated Commission member.

(3) A referee or judge shall not participate or accept an assignment to officiate when that assignment may tend to impair the referee's or judge's independence of judgment or action in the performance of the referee's or judge's duties.

(4) A judge shall be seated midway between the ring posts of the ring, but not on the same side as another judge, and shall have an unimpaired view of the ring.

(5) A referee shall not be assigned to officiate more than 32 scheduled rounds in one day, except when substituting for another referee who is incapacitated.

(6) A referee shall not wear jewelry that might cause injury to the contestants. Glasses, if worn, shall be protective athletic glasses or goggles with plastic lenses and a secure elastic band around the back of the head.

(7) Referees, seconds working in the corners, the designated Commission member, and physicians may wear rubber gloves in the performance of their duties.

(8) No official shall be under the influence of alcohol or controlled substances while performing the official's duties.

#### **R457-1-608. Boxing - Contact During Contests.**

(1) Beginning one minute before the first round begins, only the referee, contestants, and the chief second may be in the ring. The referee shall clear the ring of all other individuals.

(2) Once a contest has begun, only the referee, contestants, seconds, judges, Commission representatives, physician, the announcer and the announcer's assistants shall be allowed in the ring.

(3) At any time before, during or after a contest, the referee may order that the ring and technical area be cleared of any individual not authorized to be present in those areas.

(4) The referee, on the referee's own initiative, or at the request of the designated Commission member, may stop a bout at any time if individuals refuse to clear the ring and technical area, dispute a decision by an official, or seek to encourage spectators to object to a decision either verbally, physically, or by engaging in disruptive conduct.

(a) If the individual involved in disruptive conduct or encouraging disruptive conduct is the manager or second of a contestant, the referee may disqualify the contestant or order the deduction of points from that contestant's score.

(b) If the conduct occurred after the decision was announced, the Commission may change the decision, declare no contest, or pursue disciplinary action against any licensed individual involved in the disruptive conduct.

#### **R457-1-609. Boxing - Referees.**

(1) The chief official of a boxing contest shall be the referee.

(2) The referee shall:

(a) decide all questions arising in the ring during a contest that are not specifically addressed in this rule;

(b) before each contest begins, determine the name and location of the physician assigned to officiate at the contest and each contestant's chief second;

(c) summon the contestants and their chief seconds together for final instructions;

(d) make sure that the contestants understand the final instructions through an interpreter and shall use suitable gestures and signs during the contest, when necessary; and

(e) inspect a contestant's body to determine whether a foreign substance has been applied.

(3) After receiving the final instructions under Subsection (2), the contestants shall shake hands and retire to their respective corners.

(4) No individual other than the contestants, the referee, and the physician when summoned by the referee, may enter the ring or the apron of the ring during the progress of a round.

(5) If a contestant's manager or second steps into the ring or onto the apron of the ring during a round, the fight shall be halted and the referee may eject the manager or second from the ringside working area. If the manager or second steps into the ring or onto the apron a second time during the contest, the fight may be stopped and the decision may be awarded to the contestant's opponent due to disqualification.

#### **R457-1-610. Boxing - Stalling or Faking.**

(1) A referee shall warn a contestant if the referee believes the contestant is stalling or faking. If after proper warning, the referee determines the contestant is continuing to stall or pull the contestant's punches, the referee shall stop the bout at the end of the round.

(2) A referee may consult the judges as to whether or not the contestant is stalling or faking and shall abide by a majority decision of the judges.

(3) If the referee determines that either or both contestants are stalling or faking, or if a contestant refuses to fight, the referee shall end the contest and announce a no contest.

(4) A contestant who, in the opinion of the referee, intentionally falls down without being struck shall be immediately examined by a physician. After conferring with the physician, the referee may disqualify the contestant.

#### **R457-1-611. Boxing - Injuries and Cuts.**

(1) When an injury or cut is produced by a fair blow and because of the severity of the blow the contest cannot continue, the injured contestant shall be declared the loser by technical knockout.

(2) If a contestant intentionally fouls the opponent and an injury or cut is produced, and due to the severity of the injury the contestant cannot continue, the contestant who commits the foul shall be declared the loser by disqualification.

(3) If a contestant receives an intentional butt or foul and the contest can continue, the referee shall penalize the contestant who commits the foul by deducting two points. The referee shall notify the judges that the injury or cut has been produced by an intentional unfair blow so that if in the subsequent rounds the same injury or cut becomes so severe that the contest has to be suspended, the decision will be awarded as follows:

(a) a technical draw if the injured contestant is behind on points or even on a majority of scorecards; and

(b) a technical decision to the injured contestant if the injured contestant is ahead on points on a majority of the scorecards.

(4) If a contestant injures the contestant's own self trying to foul the opponent, the referee shall not take any action in the contestant's favor, and the injury shall be considered as produced by a fair blow from the opponent.

(5)(a) If a contestant is fouled accidentally during a contest and can continue, the referee shall stop the action to inform the judges and acknowledge the accidental foul.

(b) If in subsequent rounds, as a result of legal blows, the accidental foul injury worsens and the contestant cannot continue, the referee shall stop the contest and declare a technical decision with the winner being the contestant who is ahead on points on a majority of the scorecards.

(c) The judges shall score partial rounds.

(6) If a contestant is accidentally fouled in a contest and due to the severity of the injury the contestant cannot continue, the referee shall rule as follows:

(a) if the injury occurs before the completion of four rounds, declare the contest a technical draw; or

(b) if the injury occurs after the completion of four rounds, declare that the winner is the contestant who has a lead in points on a majority of the scorecards before the round of injury.

(7) If in the opinion of the referee, a contestant has suffered a dangerous cut or injury, or other physical or mental condition, the referee may stop the bout temporarily to summon the physician. If the physician recommends that the contest should not continue, the referee shall order the contest to be terminated.

(8) A fight shall not be terminated because of a low blow. The referee may give a contestant not more than five minutes if the referee believes a foul has been committed. Each contestant shall be instructed to return to the contestant's respective corner by the referee. The contestants may sit in their respective corners with their mouthpiece removed. After removing their contestant's mouthpiece, the seconds must return to their seats. The seconds may not coach, administer water, or in any other way attend to their contestant, except to replace the mouthpiece when the round is ready to resume.

(9) A physician shall immediately examine and administer aid to a contestant who is knocked out or injured.

(10) When a contestant is knocked out or made incapacitated, the referee or second shall not handle the contestant, except for the removal of a mouthpiece, unless directed by the physician to do so.

(11) A contestant shall not refuse to be examined by a physician.

(12) A contestant who has been knocked out shall not leave the site of the contest until one hour has elapsed from the time of the examination or until released by the physician.

(13) A physician shall file a written report with the Commission on each contestant who has been knocked out or injured.

#### **R457-1-612. Boxing - Knockouts.**

(1) A contestant who is knocked down shall take a minimum mandatory count of eight.

(2) In the event of a knockdown, the timekeeper shall immediately start the count loud enough to be heard by the referee, who, after waving the opponent to the farthest neutral corner, shall pick up the count from the timekeeper and proceed from there. The referee shall stop the count if the opponent fails to remain in the corner. The count shall be resumed when the opponent has returned to the corner.

(3) The timekeeper shall signal the count to the referee.

(4) If the contestant taking the count is still down when the referee calls the count of ten, the referee shall wave both arms to show that the contestant has been knocked out. The referee shall summon the physician and shall then raise the opponent's hand as the winner. The referee's count is the official count.

(5) If at the end of a round, a contestant is down and the referee is in the process of counting, the gong indicating the end of the round shall not be sounded. The gong shall only be sounded when the referee gives the command to box indicating the continuation of the bout.

(6) In the final round, the timekeeper's gong shall end the fight.

(7) A technical knockout decision shall be awarded to the opponent if a contestant is unable or refuses to continue when the gong sounds to begin the next round. The decision shall be awarded in the round started by the gong.

(8) The referee and timekeeper shall resume their count at the point it was suspended if a contestant arises before the count of ten is reached and falls down again immediately without being struck.

(9) If both contestants go down at the same time, counting will be continued as long as one of them is still down or until the referee or the ringside physician determines that one or both of the contestants needs immediate medical attention. If both contestants remain down until the count of ten, the bout will be stopped and the decision will be scored as a double knockout.

#### **R457-1-613. Boxing - Procedure After Knockout or Contestant Sustaining Damaging Head Blows.**

(1) A contestant who has lost by a technical knockout shall not fight again for a period of 30 calendar days or until the contestant has submitted to a medical examination. The Commission may require such physical exams as necessary.

(2) A ringside physician shall examine a contestant who has been knocked out in a contest or a contestant whose fight has been stopped by the referee because the contestant received hard blows to the head that made the contestant defenseless or incapable of continuing immediately after the knockout or stoppage. The ringside physician may order post-fight neurological examinations, which may include computerized axial tomography (CAT) scans or magnetic resonance imaging (MRI) to be performed on the contestant immediately after the contestant leaves the location of the contest. Post-fight neurological examination results shall be forwarded to the Commission by the ringside physician as soon as possible.

(3) A report that records the amount of punishment a fighter absorbed shall be submitted to the Commission by the ringside physician within 24 hours of the end of the fight.

(4) A ringside physician may require any contestant who has sustained a severe injury or knockout in a bout to be thoroughly examined by a physician within 24 hours of the bout. The physician shall submit the physician's findings to the Commission. Upon the physician's recommendation, the Commission may prohibit the contestant from boxing until the contestant is fully recovered and may extend any such suspension imposed.

(5) All medical reports that are submitted to the Commission relative to a physical examination or the condition of a contestant shall be confidential and shall be open for examination only by the Commission and the licensed contestant upon the contestant's request to examine the records or upon the order of a court of competent jurisdiction.

(6) A contestant who has been knocked out or who received excessive hard blows to the head that made the contestant defenseless or incapable of continuing shall not be permitted to take part in competitive or noncompetitive boxing for a period of not less than 60 days. Noncompetitive boxing shall include any contact training in the gymnasium.

(a) It shall be the responsibility of the contestant's manager and seconds to assure that the contestant complies with this rule.

(b) Violation of this rule could result in the indefinite suspension of the contestant and the contestant's manager or second.

(7) A contestant may not resume boxing after any period of rest prescribed in Subsections R457-1-613(1) and (6), unless following a neurological examination, a physician certifies the contestant as fit to take part in competitive boxing. A contestant who fails to secure an examination before resuming boxing shall be automatically suspended until the results of the examination have been received by the Commission and the contestant is certified by a physician as fit to compete.

(8) A contestant who has lost six consecutive fights shall be prohibited from boxing again until the Commission has reviewed the results of the six fights or the contestant has submitted to a medical examination by a physician.

(9) A contestant who has suffered a detached retina shall be automatically suspended and shall not be reinstated until the contestant has submitted to a medical examination by an ophthalmologist and the Commission has reviewed the results of the examination.

(10) A contestant who is prohibited from boxing in other states or jurisdictions due to medical reasons shall be prohibited from boxing in accordance with this rule. The Commission shall consider the contestant's entire professional record regardless of the state or country in which the contestant's fights occurred.

(11) A contestant or the contestant's manager shall report any change in the contestant's medical condition which may affect the contestant's ability to fight safely.

(12) The Commission may, at any time, require current medical information on any contestant.

#### **R457-1-614. Boxing - Waiting Periods.**

The number of days that shall elapse before a contestant who has competed anywhere in a bout may participate in another bout shall be as follows:

TABLE	
Length of Bout (In scheduled rounds)	Required Interval (In days)
4	6
5-9	6
10-12	13

#### **R457-1-615. Boxing - Fouls.**

A referee may disqualify or penalize a contestant by deducting one or more points from a round for the following fouls:

(1) holding an opponent or deliberately maintaining a clinch;

(2) hitting with the head, shoulder, elbow, wrist, inside or butt of the hand, or the knee;

(3) hitting or gouging with an open glove;

(4) wrestling, spinning or roughing at the ropes;

(5) causing an opponent to fall through the ropes by means other than a legal blow;

(6) gripping at the ropes when avoiding or throwing punches;

(7) intentionally striking at a part of the body that is over the kidneys;

(8) using a rabbit punch or hitting an opponent at the base of the opponent's skull;

(9) hitting on the break or after the gong has sounded;

(10) hitting an opponent who is down or rising after being down;

(11) hitting below the belt line;

(12) holding an opponent with one hand and hitting with the other;

(13) purposely going down without being hit or to avoid a blow;

(14) using abusive language in the ring;

(15) unsportsmanlike conduct by the contestant or a second whether before, during, or after a round;

(16) intentionally spitting out a mouthpiece;

(17) any backhand blow; or

(18) biting.

#### **R457-1-616. Boxing - Penalties for Fouling.**

(1) A referee who penalizes a contestant pursuant to this rule shall notify the judges when the infraction occurs to deduct one or more points from their scorecards.

(2) A contestant committing a deliberate foul, in addition to the deduction of one or more points, may be subject to disciplinary action by the Commission.

(3) A judge shall not deduct points unless instructed to do so by the referee.

(4) The designated Commission member shall file a complaint with the Commission against a contestant disqualified on a foul.

(5) The Commission shall withhold the purse until the complaint is resolved.

#### **R457-1-617. Boxing - Contestant Outside the Ring Ropes.**

(1) A contestant who has been knocked, wrestled, pushed, or has fallen through the ropes during a contest shall not be helped back into the ring, nor shall the contestant be hindered in any way by anyone when trying to reenter the ring.

(2) When one contestant has fallen through the ropes, the other contestant shall retire to the farthest neutral corner and stay there until ordered to continue the contest by the referee.

(3)(a) The referee shall determine if the contestant has fallen through the ropes as a result of a legal blow or otherwise.

(b) If the referee determines that the contestant fell through the ropes as a result of a legal blow the referee shall warn the contestant that the contestant must immediately return to the ring.

(4) If the contestant fails to immediately return to the ring following the warning by the referee, the referee shall begin the count that shall be loud enough to be heard by the contestant.

(5) If the contestant enters the ring before the count of ten, the contest shall be resumed.

(6) If the contestant fails to enter the ring before the count of ten, the contestant shall be considered knocked out.

(7) When a contestant has accidentally slipped or fallen through the ropes, the contestant shall have 20 seconds to return to the ring.

#### **R457-1-618. Boxing - Scoring.**

(1) Officials who score a boxing contest shall use the 10-point must system.

(2) For this rule, the "10-point must system" means the winner of each round received 10 points as determined by clean hitting, effective aggressiveness, defense, and ring generalship. The loser of the round shall receive less than 10 points. If the round is even, each contestant shall receive not less than 10 points. No fraction of points may be given.

(3) Officials who score the contest shall mark their cards in ink or in indelible pencil at the end of each round.

(4) Officials who score the contest shall sign their scorecards.

(5) When a contest is scored on the individual score sheets for each round, the referee shall, at the end of each round, collect the score sheet for the round from each judge and shall give the score sheets to the designated Commission member for computation.

(6) Referees and judges shall be discreet at all times and shall not discuss their decisions with anyone during a contest.

(7) A decision that is made at the end of a boxing contest shall not be changed without a hearing, unless it is determined that the computation of the scorecards of the referee and judges shows a clerical or mathematical error giving the decision to the wrong contestant. If such an error is found, the Commission may change the decision.

(8) After a contest, the scorecards collected by the designated Commission member shall be maintained by the Commission.

(9) If a referee becomes incapacitated, a time-out shall be called and the other referee who is assigned to the contest shall assume the duties of the referee.

(10) If a judge becomes incapacitated and cannot complete the scoring of a contest, a time-out shall be called and an alternate licensed judge shall immediately be assigned to score the contest from the point at which the duties of a judge were assumed. If the incapacity of a judge is not noticed during a round, the referee shall score that round and the substitute judge shall score all subsequent rounds.

#### **R457-1-619. Boxing - Seconds.**

(1) A contestant shall not have more than four seconds, one of whom shall be designated as the chief second. The chief second shall be responsible for the conduct in the corner during a contest. During the rest period, one second shall be allowed inside the ring, two seconds shall be allowed on the apron and one second shall be allowed on the floor.

(2) All seconds shall remain seated during the round.

(3) A second shall not spray or throw water on a contestant during a round.

(4) A contestant's corner shall not heckle or in any manner annoy the contestant's opponent or the referee, or throw any object into the ring.

(5) A second shall not enter the ring until the timekeeper has indicated the end of a round.

(6) A second shall leave the ring at the timekeeper's whistle and shall clear the ring platform of all obstructions at the sound of the gong indicating the beginning of a round. Articles shall not be placed on the ring floor until the round has ended or the contest has terminated.

(7) A referee may eject a second from a ring corner for violations of the Subsections R457-1-609(6) and R457-1-608(4) of this rule, stepping into the ring and disruptive behavior, and may have the judges deduct points from a contestant's corner.

(8) A second may state to the referee that the second's contestant cannot continue and that the contest should be stopped. Only verbal notification or hand signals may be used; the throwing of a towel into the ring does not state the defeat of the contestant.

(9) A second shall not administer alcoholic beverages, narcotics, or stimulants to a contestant, pour excessive water on the body of a contestant, or place ice in the trunks or protective cup of a contestant during the progress of a contest.

#### **R457-1-620. Boxing - Managers.**

A manager shall not sign a contract for the appearance of a contestant if the manager does not have the contestant under contract.

#### **R457-1-621. Boxing. Identification - Photo Identification Cards.**

(1) Each contestant shall provide two pieces of identification to the designated Commission member before participation in a fight. One of the pieces of identification shall be a recent photo identification card issued or accepted by the Commission when the contestant receives the contestant's original license.

(2) The photo identification card shall contain the following information:

(a) the contestant's name and address;

(b) the contestant's social security number;

(c) the personal identification number assigned to the contestant by a boxing registry;

(d) a photograph of the contestant; and

(e) the contestant's height and weight.

(3) The Commission shall honor similar photo identification cards from other jurisdictions.

(4) Unless otherwise approved by the Commission, a contestant will not be allowed to compete if the contestant's photo identification card is incomplete or if the contestant fails to present the photo identification card to the designated Commission member before the bout.

#### **R457-1-622. Boxing - Dress for Contestants.**

(1) Contestants shall be required to wear the following:

(a) trunks that are belted at the contestant's waistline. For the purposes of this subsection, the waistline shall be defined as an imaginary horizontal line drawn through the navel to the top of the hips. Trunks shall not have any buckles or other ornaments on them that might injure a contestant or referee;

(b) a foul-proof pelvic area protector for male contestants;

(c) shoes that are made of soft material without spikes, cleats, or heels;



(d) a fitted mouthpiece; and  
(e) gloves meeting the requirements specified in Section R457-1-604.

(2) In addition to the clothing required pursuant to Subsections R457-1-622(1)(a) through (e), a contestant shall wear a body shirt or blouse without buttons, buckles, or ornaments.

(3) A contestant's hair shall be cut or secured so as not to interfere with the contestant's vision.

(4) A contestant shall not wear corrective lenses other than soft contact lenses into the ring. A bout shall not be interrupted for the purposes of replacing or searching for a soft contact lens.

#### **R457-1-623. Boxing - Failure to Compete.**

A contestant's manager shall immediately notify the Commission if the contestant cannot compete in a contest due to illness or injury. A physician may be selected as approved by the Commission to examine the contestant.

#### **R457-1-624. Boxing -- Change of Decision After Contest or Exhibition: Factors Considered by Commission.**

Except as otherwise provided in Subsection R457-1-507(6), the Commission will not change a decision made at the end of any contest or exhibition unless:

(1) the Commission determines that there was collusion affecting the result of the contest or exhibition;

(2) the compilation of the scorecards of the judges discloses an error which shows that the decision was given to the wrong contestant; or

(3) as the result of an error in interpreting this section, the referee has made an incorrect decision.

#### **R457-1-701. Elimination Tournaments.**

(1) In general. The Pete Suazo Utah Athletic Commission Act, Title 9, Chapter 23, and Rule R457-1 apply to elimination tournaments, including provisions pertaining to licenses, fees, stopping contests, impounding purses, testing requirements for contestants, and adjudicative proceedings. For purposes of identification, an elimination tournament contestant shall provide any form of identification that contains a photograph of the contestant, such as a state driver's license, passport, or student identification card.

(2) Official rules of the sport. Upon requesting the Commission's approval of an elimination tournament in this state, the sponsoring organization or promoter of an elimination tournament may submit the official rules for the sport to the Commission and request the Commission to apply the official rules in the contest.

(3) The Commission shall not approve the official rules of the sport and shall not allow the contest to be held if the official rules are inconsistent, in any way, with the purpose of the Pete Suazo Utah Athletic Commission Act, Title 9, Chapter 23, or with the rule adopted by the Commission for the administration of that Act, Rule R457-1.

#### **R457-1-702. Restrictions on Elimination Tournaments.**

Elimination tournaments shall comply with the following restrictions:

(1) An elimination tournament must begin and end within a period of 48 hours.

(2) All matches shall be scheduled for no more than three rounds. A round must be one minute in duration.

(3) A contestant shall wear 16 oz. boxing gloves, training headgear, a mouthpiece and a large abdominal groin protector during each match.

(4) A contestant may participate in more than one match, but a contestant shall not compete in more than a total of 12 rounds.

(5) The promoter of the elimination tournament shall be required to supply at the time of the weigh-in of contestants, a physical examination on each contestant, conducted by a physician not more than 60 days before the elimination tournament in a form provided by the Commission, certifying that the contestant is free from any physical or mental condition that indicates the contestant should not engage in activity as a contestant.

(6) The promoter of the elimination tournament shall be required to supply at the time of the weigh-in of the contestants HIV test results for each contestant pursuant to Section R457-1-507 of this rule and Section 9-23-317.

(7) The Commission may impose additional restrictions in advance of an elimination tournament.

#### **R457-1-801. Martial Arts Contests and Exhibitions.**

(1) All full-contact martial arts are forms of unarmed combat. Therefore, the Pete Suazo Utah Athletic Commission Act, Title 9, Chapter 23, and Rule R457-1 apply to contests or exhibitions of such martial arts, including provisions pertaining to licenses, fees, stopping contests, impounding purses, testing requirements for contestants, and adjudicative proceedings. For purposes of identification, a contestant in a martial arts contest or exhibition shall provide any form of identification that contains a photograph of the contestant, such as a state driver's license, passport, or student identification card.

(2) Upon requesting the Commission's approval of a contest or exhibition of a martial art in this state, the sponsoring organization or promoter may submit the official rules for the particular art to the Commission and request the Commission to apply the official rules in the contest or exhibition.

(3) The Commission shall not approve the official rules of the particular art and shall not allow the contest or exhibition to be held if the official rules are inconsistent, in any way, with the purpose of the Pete Suazo Utah Athletic Commission Act, Title 9, Chapter 23, or with the rule adopted by the Commission for the administration of that Act, Rule R457-1.

(4) A Contestant shall not compete in more than one contest every six days unless otherwise cleared by a ringside physician and pending Commission approval.

#### **R457-1-802. Martial Arts Contest Weights and Classes.**

Martial Arts Contest Weights and Classes:

(1) flyweight is up to and including 125 lb. (56.82 kgs.);

(2) bantamweight is over 125 lb. (56.82 kgs.) to 135 lb. (61.36 kgs.);

(3) featherweight is over 135 lb. (61.36 kgs.) to 145 lb. (65.91 kgs.);

(4) lightweight is over 145 lb. (65.91 kgs.) to 155 lb. (70.45 kgs.);

(5) welterweight is over 155 lb. (70.45 kgs.) to 170 lb. (77.27 kgs.);

(6) middleweight is over 170 lb. (77.27 kgs.) to 185 lb. (84.09 kgs.);

(7) light-heavyweight is over 185 lb. (84.09 kgs.) to 205 lb. (93.18 kgs.);

- (8) heavyweight is over 205 lb. (93.18 kgs.) to 265 lb. (120.45 kgs.); and
- (9) super heavyweight is over 265 lb. (120.45 kgs.).

#### **R457-1-901. White-Collar Contests.**

Pursuant to Sections 9-23-316 and 9-23-318 the Commission adopts the following rules for White-Collar Contests:

- (1) Contestants shall be at least 21 years old on the day of the contest.
- (2) Competing contestants shall be of the same gender.
- (3) The heaviest contestant's weight shall be no greater than 15% more than their opponent.
- (4) A ringside physician, doctor of medicine or doctor of osteopathic medicine, must be present at the ringside or cage-side during each bout, and emergency medical response must be within five minutes of the training center venue.
- (5) The following are prohibited:
- (a) ticket sales, admission fees, and donations;
- (b) concession sales;
- (c) more than four bouts at an event on a single day;
- (d) knee strikes to the head to a standing or grounded opponent;
- (e) elbow, forearm and triceps strikes to a standing or grounded opponent;
- (f) strikes to the head of a grounded opponent;
- (g) twisting leg submissions;
- (h) spine attacks, including spine strikes and locks;
- (i) neck attacks, including strikes, chokes and cranks;
- (j) linear kicks to and around the knee joint; or
- (k) dropping an opponent on the opponent's head or neck.
- (6) Medical insurance coverage for each contestant that meets the requirements of Subsection R457-1-501(11) shall be provided at no expense to the contestant.
- (7) Full legal names, birthdates, and addresses of all contestants shall be provided to the Commission no later than 72 hours before the scheduled event.

#### **R457-1-1001. Qualifications for Applications for Grants for Amateur Boxing.**

- (1) In accordance with Section 9-23-304, each applicant for a grant shall:
- (a) submit an application in a form prescribed by the Commission;
- (b) provide documentation that the applicant is an "organization which promotes amateur boxing in the state"; and
- (c) upon request from the Commission, document the following:
- (i) the financial need for the grant;
- (ii) how the funds requested will be used to promote amateur boxing; and
- (iii) receipts for expenditures for which the applicant requests reimbursement.
- (2) Reimbursable Expenditures - The applicant may request reimbursement for the following types of eligible expenditures:
- (a) costs of travel, including meals, lodging and transportation associated with participation in an amateur boxing contest for coaches and contestants;
- (b) maintenance costs; and
- (c) equipment costs.

(3) Eligible Expenditures - In order for an expenditure to be eligible for reimbursement, an applicant must:

(a) submit documentation supporting such expenditure to the Commission showing that the expense was incurred during the State Fiscal Year at issue; and

(b) submit such documentation no later than June 30 of the current State Fiscal Year at issue.

(4) The Commission will review grant applicants and select applicants will best promote amateur boxing in the state.

#### **R457-1-1002. Criteria for Awarding Grants.**

The Commission may consider any of the following criteria in determining whether to award a grant:

(1) whether any funds have been collected for purposes of amateur boxing grants under Section 9-23-304;

(2) the applicant's past participation in amateur boxing contests;

(3) the scope of the applicant's current involvement in amateur boxing;

(4) demonstrated need for the funding; or

(5) the involvement of adolescents including rural and minority groups in the applicant's amateur boxing program.

**KEY: licensing, boxing, unarmed combat, White-collar contests**

**Date of Last Change: 2023**

**Authorizing, and Implemented or Interpreted Law: 9-23-101 et seq.**

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

**TYPE OF FILING:** Repeal

<b><u>Rule or Section Number:</u></b>	<b><u>R495-878</u></b>	<b><u>Filing ID:</u></b> <b><u>55435</u></b>
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#### **Agency Information**

<b>1. Department:</b>	Health and Human Services		
<b>Agency:</b>	Administration		
<b>Building:</b>	Multi-Agency State Office Building (MASOB)		
<b>Street address:</b>	195 N 1950 W		
<b>City, state and zip:</b>	Salt Lake City, UT 84116		
<b>Contact persons:</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Jonah Shaw	385 310- 2389	jshaw@utah.gov	
<b>Please address questions regarding information on this notice to the agency.</b>			

#### **General Information**

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

R495-878. Americans with Disabilities Act and Civil Rights Grievance Procedures

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

The purpose of this filing is to repeal this rule. The Department of Health and Human Services (Department) will utilize Rule R380-100, Americans with Disabilities Act Grievance Procedures, to implement the provisions of 28 CFR 35 which in turn implements Title II of the Americans with Disabilities Act.

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

This filing repeals this rule in its entirety.

**Fiscal Information**

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

**A) State budget:**

No change to the state budget is expected because this repeal is technical in nature and is the result of the consolidation and recodification of the Department's code.

**B) Local governments:**

Local governments will not see a fiscal impact with this repeal; the repeal is technical in nature and is the result of the consolidation and recodification of the Department's code.

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

Small businesses will not see a fiscal impact with this repeal; the repeal is technical in nature and is the result of the consolidation and recodification of the Department's code.

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

Non-small businesses will not see a fiscal impact with this repeal; the repeal is technical in nature and is the result of the consolidation and recodification of the Department's code.

**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**):

Persons other than small businesses, non-small businesses, state, or local government entities will not see a fiscal impact with this repeal; the repeal is technical in nature and is the result of the consolidation and recodification of the Department's code.

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

There will be no costs generated by the proposed repeal; the repeal is technical in nature and is the result of the consolidation and recodification of the Department's code.

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

**Regulatory Impact Table**

<b>Fiscal Cost</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.

**Citation Information**

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

Section 26B-1-202

**Public Notice Information**

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

**A) Comments will be accepted until:** 07/17/2023

**9. This rule change MAY become effective on:** 07/25/2023

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	05/22/2023
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**[R495. Human Services, Administration.****R495-878. Americans with Disabilities Act and Civil Rights Grievance Procedures.****R495-878-1. Authority and Purpose.**

(1) This rule is authorized by Section 62A-1-111.

(2) The purpose of this rule is to provide for the prompt and equitable resolution of complaints alleging any violation of the nondiscrimination provisions of Title VI of the Civil Rights Act of 1964, Title II of the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, or the Age Discrimination Act of 1975, by employees of the Department.

**R495-878-2. Definitions.**

(1) "ADA" means Title II of the Americans with Disabilities Act of 1990.

(2) "ADA/Civil Rights/LEP/Section 504 Coordinator" means the employee assigned by the executive director to facilitate the prompt and equitable resolution of complaints alleging discrimination by employees of the Department.

(3) "Complainant" means an individual who has applied to receive services, is currently receiving services, or who has received services from the Department, or that individual's authorized representative.

(4) "Department" means the Department of Human Services created by Section 62A-1-102, and includes the divisions and offices created by Section 62A-1-105.

(5) "Division Coordinator" means an individual assigned by the executive director to investigate allegations of discrimination by employees of the Department.

(6) "Director" means the head of the division or office of the Department affected by a complaint filed under this rule.

(7) "Executive Director" means the executive director of the department.

(8) "LEP" means Limited English Proficiency.

(9) "Section 504" means Section 504 of the Rehabilitation Act of 1973.

**R495-878-3. Filing of Complaints.**

(1) A complainant may file a complaint alleging the violation of the nondiscrimination provisions of Title VI of the Civil Rights Act of 1964, Title II of the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, or the Age Discrimination Act of 1975, by employees of the Department.

(2) A complainant shall file a complaint with the Department's ADA/Civil Rights/LEP/Section 504 Coordinator, unless the complaint includes allegations against the ADA/Civil Rights/LEP/Section 504 Coordinator, in which case the complaint shall be filed with the executive director.

(3) A complainant may file a written, oral, or electronic complaint to:

ADA/Civil Rights/LEP/Section 504 Coordinator  
Department of Human Services  
Executive Directors Office 4th floor  
195 North 1950 West  
Salt Lake City, Utah 84116; or  
dhscivilrightsc Complaint@utah.gov; or  
(801) 538-4187 (TTY) or Utah Relay 711.

(4) To facilitate a thorough investigation, the complainant should file a written, oral, or electronic complaint with the Department ADA/Civil Rights/LEP/Section 504 Coordinator no later than thirty (30) days from the date of the alleged circumstances giving rise to the complaint. A complaint should include the following information (complaint form available online at <http://hs.utah.gov/>):

(a) A detailed description of the alleged circumstances which caused the complaint, including dates and locations;

(b) The names and contact information of any and all persons involved in those circumstances;

(c) A detailed description of any actions taken by the complainant to address the complaint; and

(d) The desired result or outcome that the complainant is seeking from the Department.

**R495-878-4. Investigation of Complaints.**

(1) Within ten (10) days after receipt of the complaint, the ADA/Civil Rights/LEP/Section 504 Coordinator will assign the investigation of the complaint to the applicable Division Coordinator.

(a) The ADA/Civil Rights/LEP/Section 504 Coordinator will retain a copy of the complaint in a central.

(b) Investigations shall be completed within sixty (60) days after receipt of the complaint by the applicable Division Coordinator.

(2) Within ten (10) days after receipt of the complaint from the ADA/Civil Rights/LEP/Section 504 Coordinator, the Division Coordinator will notify the complainant in writing or electronically that an investigation of the complaint has commenced and will provide the deadline upon which the complainant should receive correspondence regarding the outcome of the investigation.

(a) The ADA/Civil Rights/LEP/Section 504 Coordinator shall be provided a copy of this correspondence from the Division Coordinator.

(b) A copy of all correspondence will be included in the ADA/Civil Rights/LEP/Section 504 Coordinator's central file.

(3) The Division Coordinator, or designee under the direction of the Division Coordinator, will conduct the investigation into the complaint and draft a proposed response to the complaint.

(a) The Division Coordinator shall gather and document all available relevant information.

~~(b) If the Division Coordinator is unable to complete the investigation and make a recommendation within the deadline, the complainant and the ADA/Civil Rights/LEP/Section 504 Coordinator shall be notified of the reason and how much additional time is needed.~~

#### **R495-878-5. Recommendation and Decision.**

~~(1) Completion of the investigation will result in a decision that the alleged circumstances occurred, did not occur, or could not be substantiated.~~

~~(a) If the alleged circumstances did occur, then the recommendation will also include suggestions to address barriers in the future involving similar circumstances.~~

~~(b) If the alleged circumstances could not be substantiated, but the Division Coordinator is able to identify areas where DHS practices may be improved, then suggestions may be made to address barriers in the future involving similar alleged circumstances.~~

~~(c) The Division Coordinator will be responsible for drafting the initial correspondence to the complainant.~~

~~(2) The correspondence will be sent by the Division Coordinator to the Director for final approval and mailing to the complainant.~~

~~(a) A copy of the correspondence will be sent to the ADA/Civil Rights/LEP/Section 504 Coordinator, and included in a central file.~~

~~(3) Within ten (10) business days after the conclusion of the investigation, the Division Coordinator will notify the complainant in writing concerning the outcome of the investigation.~~

~~(a) The Division Coordinator will log in the date that the written response is sent to the complainant to indicate that the complaint is completed.~~

~~(4) The Director shall take all reasonable steps to implement the recommendation, including the suggestions to ameliorate barriers in the future involving similar circumstances.~~

~~(5) Any of the foregoing deadlines may be reasonably extended for extenuating circumstances. Any extensions of time will be confirmed in writing to the complainant.~~

#### **R495-878-6. Appeals.**

~~(1) The complainant may appeal the Director's decision to the Executive Director within ten working days after the complainant's receipt of the Director's decision.~~

~~(2) The appeal shall be in writing.~~

~~(3) The Executive Director may name a designee to assist on the appeal. The ADA/Civil Rights/LEP/Section 504 Coordinator, Division Coordinator, Director, and Director's designee may not be the Executive Director's designee for the appeal.~~

~~(4) In the appeal the complainant shall describe in sufficient detail why the decision does not effectively address the complainant's needs.~~

~~(5) The Executive Director or designee shall review the Division Coordinator's recommendation, the Director's decision, and the points raised on appeal prior to reaching a decision. The Executive Director or designee may direct additional investigation as necessary. The Executive Director shall consult with representatives from other state agencies that may be affected by the decision, including the Office of Management and Budget, the Division of Risk Management, the Division of Facilities Construction Management, and the Office of the Attorney General before making any decision that would:~~

~~(a) involve an expenditure of funds beyond what is reasonably able to be accommodated within the applicable line item so that it would require a separate appropriation; or~~

~~(b) require facility modifications;~~

~~(6) The Executive Director or designee shall issue a final decision within 15 working days after receiving the complainant's appeal. The decision shall be in writing, and shall be delivered to the complainant.~~

~~(7) If the Executive Director or designee is unable to reach a final decision within the 15 working day period, the complainant shall be notified in writing why the final decision is being delayed and the additional time needed to reach a final decision.~~

#### **R495-878-7. Relationship to Other Laws.**

~~This rule does not prohibit or limit the use of remedies available to individuals under:~~

~~(a) the state Anti-Discrimination Complaint Procedures, Section 34A-5-107 and Section 67-19-32;~~

~~(b) the Federal ADA Complaint Procedures, 28 CFR 35.170 through 28 CFR 35.178; or~~

~~(c) any other Utah State or federal law that provides equal or greater protection for the civil rights of individuals, including but not limited to Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973~~

**KEY: grievance procedures, disabled persons**

**Date of Last Change: August 25, 2015**

**Notice of Continuation: December 23, 2021**

**Authorizing, and Implemented or Interpreted Law: 62A-1-111; 63G-3-201(3); 28 CFR 35.107]**

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

**TYPE OF FILING:** Amendment

**Rule or Section Number:**

**R590-222**

**Filing ID:**  
**55451**

#### **Agency Information**

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

**Please address questions regarding information on this notice to the persons listed above.**



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

R590-222. Life Settlements

**3. Purpose of the new rule or reason for the change:**

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:**

The majority of the changes are being done to fix style issues to bring this rule text more in line with the Utah Rulewriting Manual standards.

Other changes make the language of this rule more clear, remove the Enforcement Date (old R590-222-15) and Penalties (old R590-222-16) sections, and update the Severability (new R590-222-15) section to use the Department's current language.

The changes do not add, remove, or change any regulations or requirements.

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

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

**B) Local governments:**

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

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

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

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

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

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

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

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

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

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

<b>Fiscal Cost</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The 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-36-119	
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## Public Notice Information

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

<b>A) Comments will be accepted until:</b>	07/17/2023
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<b>9. This rule change MAY become effective on:</b>	07/25/2023
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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

<b>Agency head or designee and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	06/01/2023
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## R590. Insurance, Administration.

### R590-222. Life Settlements.

#### R590-222-1. Authority.

This rule is promulgated by the ~~[insurance commissioner pursuant to the authority provided in Subsection 31A-2-201(3), authorizing rules to implement the provisions of Title 31A, and Section 31A-36-119, authorizing rules to implement the provisions of Title 31A, Chapter 36]~~ commissioner pursuant to Sections 31A-2-201 and 31A-36-119.

#### R590-222-2. Purpose and Scope.

(1) The purpose of this rule is to implement procedures for ~~licensure of~~:

(a) ~~licensing a life settlement provider[s and producers,] or life settlement producer;~~

(b) ~~a life settlement provider or a life settlement producer annual report[s];~~

(c) ~~disclosures[s];~~

(d) ~~advertising[s];~~

(e) ~~reporting of fraud[s];~~

(f) ~~prohibited practices[s];~~

(g) ~~standards for life settlement payments[s]; and~~

(h) ~~procedures for [requests-]a request for verification of coverage.~~

(2) This rule applies to ~~all~~:

(a) ~~a life settlement provider[s and];~~

(b) ~~a life settlement producer[s and to]; or~~

(c) ~~an insurer[s] whose [policies are being-]policy is to be settled.~~

#### R590-222-3. ~~Incorporation by Reference.~~

~~The following appendices are hereby incorporated by reference within this rule and are available at <https://insurance.utah.gov/consumer/legal-resources/rules/current-rules>:~~

(1) ~~Appendix A, Utah Life Settlement Provider Initial Application, dated 2009.~~

(2) ~~Appendix B, Utah Life Settlement Provider Annual Report, dated 2009.~~

(3) ~~Appendix C, NAIC Life Settlement brochure Selling Your Life Insurance Policy, dated 2004.~~

(4) ~~Appendix D, NAIC Verification of Coverage for Life Insurance Policies, dated 2004.~~

(5) ~~Appendix E, Utah Life Settlement Provider Renewal Application, dated 2020.~~

#### R590-222-4. ~~Definitions.~~

~~[In addition to the definitions in Section 31A-1-301 and 31A-36-102, the following definitions apply to this rule] Terms used in this rule are defined in Sections 31A-1-301 and 31A-36-102. Additional terms are defined as follows:~~

(1) ~~[For purposes of this rule, "insured" means the ]~~ "Compliant" means a filing that is complete and complies with Title 31A, Insurance Code, and Title R590, Administration.

(2) "Insured" means, for purposes of this rule, a person covered under ~~[the-]a settled policy[-being considered for settlement].~~

~~[(2)](3)~~ "Patient identifying information" means an insured's address, telephone number, facsimile number, ~~[electronic mail-]email~~ address, photograph or likeness, employer, employment status, social security number, or any other identifiable information ~~[that is likely to lead to the identification of the insured].~~

#### R590-222-4. Appendices Used by a Licensee.

The following appendices shall be used as described in this rule and are available on the department's website, <https://insurance.utah.gov>:

(1) Appendix A, Utah Life Settlement Provider Initial Application, dated 2009;

(2) Appendix B, Utah Life Settlement Provider Annual Report, dated 2009;

(3) Appendix C, NAIC Life Settlement brochure Selling Your Life Insurance Policy, dated 2004;

(4) Appendix D, NAIC Verification of Coverage for Life Insurance Policies, dated 2004; and

(5) Appendix E, Utah Life Settlement Provider Renewal Application, dated 2020.

#### R590-222-5. License Requirements.

(1) Life Settlement Provider License.

(a) A person may not perform~~[s]~~ or advertise ~~[any-]a~~ service as a life settlement provider ~~[in Utah,]-~~ without a valid license.

(b) A life settlement provider license ~~[shall be-]is~~ issued on an annual basis upon:

(i) the submission of a complete initial or renewal application; and

(ii) the payment of ~~[the-]any~~ applicable fee~~[s]~~ under Section 31A-3-103.

(c) An initial or renewal applicant for a life settlement provider license shall:

~~[(i) use the application form prescribed by the commissioner and available on the department's website. For the initial application, see Appendix A and for the renewal application, see Appendix E;]~~

~~(i) submit:~~

~~(A) Appendix A for an initial application; or~~

~~(B) Appendix B for a renewal application;~~

~~(ii) [with]for an initial application, provide a copy of the applicant's plan of operation that[is to]:~~

~~(A) describes the market the applicant intends to target;~~

~~(B) explains who will produce business for the applicant and how [these people]they will be recruited, trained, and compensated;~~

~~(C) estimates the applicant's projected Utah business over the next 5 years;~~

~~(D) describes the corporate organizational structure of the applicant, its parent company, and [all]each affiliate[s];~~

~~(E) describes the procedures used by the applicant to [insure]ensure that life settlement proceeds will be sent to the owner within three business days [as required by]under Subsection 31A-36-110[-](3); and~~

~~(F) describes the procedures used by the applicant to [insure]ensure that the identity, financial information, and medical information of an insured are not disclosed except as authorized under Section 31A-36-106;~~

~~(iii) [with]for an initial application, provide [the]an antifraud plan [as]required by Section 31A-36-117;~~

~~[(iv) with both an initial and renewal application, provide any other information requested by the commissioner; and]~~

~~[(v) with](iv) for both an initial application and a renewal application, provide evidence of financial responsibility in the amount of \$250,000 in the form of a surety bond issued by an insurer authorized in this state[The], according to the following terms:~~

~~(A) the surety bond shall be in the favor of [this]the state and shall specifically authorize recovery by the commissioner on behalf of any person in this state who sustained damages as the result of erroneous acts, failure to act, conviction of fraud, or conviction of unfair practices by the life settlement provider;~~

~~[(A) The](B) the evidence of financial responsibility shall remain in force for as long as the licensee is active[-];~~

~~[(B) The](C) the bond [shall]may not be terminated or reduced without 30 days prior written notice to the licensee and the commissioner[-]; and~~

~~[(C) The](D) the commissioner may accept as evidence of financial responsibility[-] proof that a surety bond[-, in accordance with the requirements in subsection 1(e)(v), has been-] is filed with the commissioner of any other state where the life settlement provider is licensed as a life settlement provider as long as the benefits provided by the surety bond extend to this state[-]; and~~

~~(v) provide other information required by the commissioner.~~

~~[(d) The commissioner may refuse to issue or renew a license of a life settlement provider if any officer, one who is a holder of more than 10% of the provider's stock, partner, or director fails to meet the standards of Title 31A, Chapter 36.]~~

~~(d) A new or renewal application may be denied if an officer holding more than 10% of the provider's stock, a partner, or a director fails to comply with Title 31A, Chapter 36, Life Settlements Act.~~

~~(e) [If, within the time prescribed, a life settlement provider fails-]Failure to pay the renewal fee, [fails to-]submit the renewal~~

application, or [fails to-]submit the annual report [required in]under Section R590-222-6[-, the nonpayment or failure to submit] shall:

~~(i) result in lapse of the license; and~~

~~(ii) subject the life settlement provider to administrative [penalties and forfeitures]penalty and forfeiture.~~

~~(f) If a life settlement provider has, at the time of license renewal, life settlements where the insured has not died, the life settlement provider shall:~~

~~(i) renew or maintain its current license status until the earlier of[the following events]:~~

~~(A) the date the life settlement provider properly assigns, sells, or otherwise transfers the life settlements where the insured has not died; or~~

~~(B) the date that the last insured covered by a life settlement transaction has died; and~~

~~(ii) designate, in writing, either the life settlement provider that entered into the life settlement or the life settlement producer who received commission from the life settlement, [if applicable, or any other]or a life settlement provider or life settlement producer licensed in this state, to make all inquiries to the owner, or the owner's designee, regarding health status of the insured [or]and any other matters.~~

~~(g) [The commissioner shall not issue a license-]A license may not be issued to a nonresident life settlement provider unless a written designation of an agent for service of process is filed and maintained with the commissioner.~~

~~(2) Life Settlement Producer license. A life settlement producer shall be licensed under Title 31A, Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries, with a life insurance line of authority.~~

~~[-Life settlement producers shall be licensed in accordance with Title 31A, Chapter 23a with a life insurance line of authority.]~~

#### **R590-222-6. Annual Report.**

~~(1)(a) By March 1 of each calendar year, [each]a life settlement provider [licensed in this state]shall submit an annual report to the commissioner.[Such report shall be-]~~

~~(b) The report in Subsection (1)(a) is limited to all life settlement transactions where the owner is a resident of this state.~~

~~(2) [This-]The report shall:~~

~~(a) contain information for the previous calendar year for each life settlement contracted during the reporting period;~~

~~(b) be submitted in the format in Appendix B; and~~

~~(c) contain the following[-information for the previous calendar year for each life settlement contracted during the reporting period]:~~

~~[(a)](i) a coded identifier;~~

~~[(b)](ii) a policy issue date;~~

~~[(c)](iii) a date of the life settlement;~~

~~[(d)](iv) a net death benefit settled;~~

~~[(e)](v) an amount available to the policyholder under the terms of the policy at the time of the settlement; and~~

~~[(f)](vi) a net amount paid to the owner.~~

~~(3) The completed report [is to]shall be submitted by email to life.uid@utah.gov.~~

#### **R590-222-7. Payment Requirements.**

~~(1) Payment of the proceeds of a life settlement pursuant to Subsection 31A-36-110(3) shall be by[means of]:~~

~~(a) wire transfer to an account designated by the owner[or by];~~



- \_\_\_\_\_ (b) certified check; or  
\_\_\_\_\_ (c) cashier's check.

(2)(a) Payment of the proceeds to the owner pursuant to a life settlement shall be made in a lump sum except where the life settlement provider ~~[has purchased]~~ purchases an annuity or similar financial instrument issued by a licensed life insurance company or bank, or an affiliate of either.

\_\_\_\_\_ (b) Retention of a portion of the proceeds, not disclosed or described in the life settlement by the life settlement provider or escrow agent, is not permissible without written consent of the owner.

#### **R590-222-8. Disclosures.**

~~[(1) As required by Subsection 31A-36-108(1), the disclosure, which is to be provided no later than the time of the application for the life settlement, shall be provided in a separate document that is signed by the owner and the life settlement provider or producer, and shall contain the following information:]~~

~~(1) The disclosure required by Subsection 31A-36-108(1), provided in a separate document no later than the time of the application for the life settlement and signed by the owner and the life settlement provider or life settlement producer, shall contain:~~

~~(a) [There are possible] the alternatives to a life settlement, including any accelerated death benefit[s], loan[s], or other benefit[s] offered under the owner's life insurance policy[-];~~

~~(b) [Some or all of] the proceeds of the life settlement may be taxable under federal and state income [taxes] tax laws, and assistance should be sought from a professional tax advisor[-];~~

~~(c) [Proceeds] proceeds of the life settlement [could] may be subject to the claims of creditors[-];~~

~~(d) [Receipt] receipt of the proceeds of a life settlement may adversely affect the owner's eligibility for Medicaid or other government benefits or entitlements, and advice should be obtained from the appropriate government agencies[-];~~

~~(e) [The owner has the right to] the owner of the life settlement may rescind a life settlement within 15 calendar days after [the] receipt of the life settlement proceeds [by the owner as provided by] under Subsection 31A-36-109(7)[- If];~~

~~(f) if the insured dies during the rescission period, the life settlement is [deemed to have been] rescinded[- Rescission-];~~

~~(g) rescission is subject to repayment of all life settlement proceeds[- and], any premiums, loans, and loan interest to the life settlement provider[-];~~

~~[(f) Funds will be -] (h) funds are sent to the owner of the life settlement within three business days after the life settlement provider [has received] receives the insurer or group administrator's written acknowledgment that ownership of the policy or interest in the certificate [has been] is transferred and the beneficiary [has been] is designated[-];~~

~~[(g) Entering -] (i) entering into a life settlement may cause other rights or benefits, including conversion rights and waiver of premium benefits that [may] exist under the policy or certificate, to be forfeited by the owner[- Assistance -] and assistance should be sought from a financial adviser[-];~~

~~[(h) Disclosure -] (j) the disclosure to an owner of a life settlement shall include [distribution of a copy of the National Association of Insurance Commissioners (NAIC) Life Settlement brochure, dated 2004, that describes the process of life settlements, see] Appendix C[-~~

~~(i) The disclosure document shall contain];~~

~~(k) the following language: "All medical, financial or personal information solicited or obtained by a life settlement provider or life settlement producer about an insured, including the~~

insured's identity or the identity of family members, a spouse or a significant other may be disclosed as necessary to effect the life settlement between the owner and the life settlement provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every two years."[- and

~~[(j) Following execution of a life settlement, -] (l) the insured, following execution of a life settlement, may be contacted [for the purpose of determining -] to determine the insured's health status and to confirm the insured's [residential or business -] street address and telephone number[- This contact shall be -];~~

~~(i) contact is limited to once every three months if the insured has a life expectancy of more than one year, and no more than once per month if the insured has a life expectancy of one year or less[- All such contacts shall -]; and~~

~~(ii) contacts may be made [only -] by a life settlement provider licensed in the state in which the owner resided at the time of the life settlement, or by the authorized representative of a [duty] licensed life settlement provider.~~

~~(2)(a) A life settlement provider shall provide the owner of the life settlement with [at least the following disclosures -] a disclosure no later than the date the life settlement is signed by [all] the parties.~~

~~(b) The disclosure[s] shall be conspicuously displayed in the life settlement or in a separate document, signed by the owner, and provide[- the following information]:~~

~~[(a) The affiliation, if any -] (i) any affiliation between the life settlement provider and the issuer of the settled insurance policy[- to be settled -];~~

~~[(b) The document shall include -] (ii) the name, business address, and telephone number of the life settlement provider[-];~~

~~[(c) The -] (iii)(A) the amount and method [of calculating] used to calculate the compensation paid or to be paid to the life settlement producer or [any -] other person acting for the owner of the life settlement, in connection with the transaction[- The term -];~~

~~(B) "compensation" includes anything of value paid or given for the placement of a policy[-];~~

~~[(d) If -] (iv) if an insurance policy to be settled [has been] is issued as a joint policy or involves family riders or [any -] coverage of a life other than the insured under the policy to be settled, the owner shall be informed of the possible loss of coverage on the other lives under the policy and [shall be advised to -] should consult [with] an insurance producer or the insurer issuing the policy for advice on the proposed life settlement[-];~~

~~[(e) State -] (v) state the dollar amount of the current death benefit payable to the life settlement provider under the policy or certificate[- If -], if known, the [life settlement provider shall also disclose the -] availability of any additional guaranteed insurance benefits, the dollar amount of any accidental death and dismemberment benefits under the policy or certificate, and the extent to which the owner's interest in those benefits will be transferred [as a result of -] because of the life settlement[-];~~

~~[(f) State -] (vi) the name, business address, and telephone number of the independent third[-] party escrow agent[-]; and [- the fact -]~~

~~(vii) that the owner may inspect or receive copies of the relevant escrow or trust agreements or documents.~~

~~(3) If [the -] a life settlement provider transfers ownership or changes the beneficiary of the insurance policy, the provider shall communicate, in writing, the change in ownership or beneficiary to the insured within 20 days after the change.~~

**R590-222-9. Standards for Evaluation of Reasonable Payments.**

~~[The]~~A life settlement provider ~~[is responsible for assuring]~~ shall guarantee that the net proceeds from the life settlement exceed the benefits ~~[that are]~~ available at the time of the life settlement under the terms of the policy including cash surrender, long-term care, and accelerated death benefits.

**R590-222-10. Requests for Verification of Coverage.**

(1) ~~[Insurers, authorized to do business in this state, whose policies are being.]~~ An insurer whose policy is settled ~~[,]~~ shall respond to a request for verification of coverage from a life settlement provider or life settlement producer within 30 ~~[calendar]~~ days of the date a request is received, subject to ~~[the following conditions]:~~

(a) a current authorization consistent with applicable law, signed by the policyholder or certificate holder, ~~[accompanies.]~~ shall accompany the request;

(b) in the case of an individual policy, submission of a form substantially similar to ~~[the NAIC Verification of Coverage for Life Insurance Policies, dated 2004, which has been.]~~ Appendix D that is completed by the life settlement provider or life settlement producer in accordance with the instructions on the form ~~[, see Appendix D];~~

(c) in the case of group insurance coverage:

(i) submission of a form substantially similar to ~~[the NAIC Verification of Coverage for Life Insurance Policies dated 2004, which has been.]~~ Appendix D that is completed by the life settlement provider or life settlement producer in accordance with the instructions on the form ~~[, see Appendix D];~~ and

(ii) ~~[which has previously been.]~~ is referred to the group policyholder and completed to the extent the information is available to the group policyholder.

(2) An insurer whose policy is being settled may not charge a fee for responding to a request for information from a life settlement provider or life settlement producer ~~[in compliance with this rule in excess of] more than~~ any usual and customary charges to policyholders, certificate holders, or insureds for similar services.

~~[(3) The.]~~ [(3)(a) An insurer whose policy is being settled shall send an acknowledgment of receipt of the request for verification of coverage to the policyholder or certificate holder and, [where] if the policyholder or certificate holder is other than the insured, to the insured.

(b) The acknowledgment may contain a general description of any accelerated death benefit or similar benefit [that is] available under a provision of or rider to the life insurance contract.

**R590-222-11. ~~[Advertising]~~ Advertisement.**

~~[(1) This section shall apply to advertising of life settlements, related products, or services intended for dissemination in this state. Failure to comply with any provision of this section is determined to be a violation of Section 31A-36-112.]~~

~~[(2)(1) The form and content of an advertisement of a life settlement shall be [sufficiently] complete and clear [so as] to avoid misleading or deceiving the reader, viewer, or listener. [It shall]~~

(2) An advertisement may not contain false or misleading information, including information that is false or misleading because it is incomplete.

(3) Information required to be disclosed ~~[shall] may~~ not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled with the text of the advertisement ~~[so as]~~ to be confusing or misleading.

(4) An advertisement ~~[shall] may~~ not omit material information or use words, phrases, statements, references, or illustrations if the omission or use has the capacity, tendency, or effect

of misleading or deceiving owners~~[,]~~ as to the nature or extent of any benefit, loss covered, premium payable, or state or federal tax consequence.

(5) An advertisement ~~[shall] may~~ not use the name or title of an insurer or an insurance policy unless the affected insurer ~~[has approved.]~~ approves the advertisement.

(6) An advertisement ~~[shall] may~~ not state or imply that interest charged on an accelerated death benefit or a policy loan is unfair, inequitable, or in any manner an incorrect or improper practice.

(7) The words "free," "no cost," "without cost," "no additional cost," "at no extra cost," or words of similar ~~[import shall]~~ meaning may not be used ~~[with respect to] regarding~~ any benefit or service unless the statement is true.

(8) An advertisement may specify the charge for a benefit or a service or may state that a charge is included in the payment or use other appropriate language.

~~[(8)(a)]~~ [(9)(a)] Testimonials, appraisals or analysis used in ~~[advertisements must] an advertisement shall:~~

(i) be genuine;

(ii) represent the current opinion of the author; [be applicable]

(iii) apply to the life settlement product or service advertised [if any]; and

(iv) be accurately reproduced [with sufficient completeness] to avoid misleading or deceiving prospective owners as to the nature or scope of the testimonials, appraisal, analysis, or endorsement. [In]

(b) When using testimonials, appraisals, or analysis, the statements become the statements of the life settlement licensee [makes, as its own, all the statements contained therein, and the statements] and are subject to [all the provisions of this section] this Section R590-222-11.

~~[(a)(c)]~~ [(c)] If ~~[the] an~~ individual making a testimonial, appraisal, analysis, or ~~[an] endorsement~~ has a financial interest in the party ~~[making use of] using~~ the testimonial, appraisal, analysis, or endorsement, either directly or through a related entity as a stockholder, director, officer, employee, or otherwise, or receives any benefit directly or indirectly other than required union scale wages, that fact shall be prominently disclosed in the advertisement.

~~[(b)(d)(i)]~~ [(d)(i)] An advertisement ~~[shall] may~~ not state or imply that a life settlement benefit or service ~~[has been] is~~ approved or endorsed by a group of individuals, society, association, or other organization unless ~~[that is the fact];~~

(A) it is a factual statement; and [unless any]

(B) a relationship between an organization and the life settlement licensee is disclosed.

(ii) If the entity making the endorsement or testimonial is owned, controlled, or managed by the life settlement licensee, or receives any payment or other consideration from the life settlement licensee for making an endorsement or testimonial, that [fact] information shall be disclosed in the advertisement.

~~[(e)(c)]~~ [(e)] When an endorsement refers to benefits received under a life settlement, all pertinent information shall be retained for a period of five years after its use.

(9) An advertisement ~~[shall] may~~ not contain statistical information unless it accurately reflects recent and relevant facts ~~[The]~~ and identifies the source of all statistics used in an advertisement ~~[shall be identified].~~

(10) An advertisement ~~[shall] may~~ not disparage insurers, life settlement providers, life settlement producers, life settlement

investment agents, anyone who may recommend a life settlement, insurance producers, policies, services, or methods of marketing.

(11)(a) The name of ~~the~~ a life settlement licensee shall be clearly identified in all advertisements about the licensee or its life settlement~~[s]~~ products or services, and, if any specific life settlement is advertised, the life settlement shall be identified either by form number or ~~some other~~ another appropriate description.

~~(b)~~ If an application is part of the advertisement, the name and ~~administrative office~~ business address of the life settlement provider shall be shown on the application.

(12) An advertisement ~~shall~~ may not use a trade name, group designation, name of ~~the~~ a parent company of a life settlement licensee, name of a particular division of ~~the~~ a life settlement licensee, service mark, slogan, symbol, or other device or reference without disclosing the name of the life settlement licensee~~[s]~~ if the advertisement ~~would have~~ has the capacity or tendency to mislead or deceive as to the true identity of the life settlement licensee, or to create the impression that a company other than the life settlement licensee ~~would have~~ has any responsibility for the financial obligation under a life settlement.

(13) An advertisement ~~shall~~ may not use any combination of words, symbols, or physical materials that by their content, phraseology, shape, color, or other characteristics are so similar to a combination of words, symbols, or physical materials used by a government program or agency or otherwise appear to be of such a nature that they tend to mislead prospective owners into believing that the solicitation is in some manner connected with a government program or agency.

(14)(a) An advertisement may state that a life settlement licensee is licensed in the state where the advertisement appears, provided it does not exaggerate that fact or suggest or imply that a competing life settlement licensee may not be so licensed.

~~(b)~~ The advertisement may ask the audience to consult the licensee's web site or contact the department ~~of insurance~~ to find out if the state requires licensing and, if so, whether the life settlement provider or life settlement producer is licensed.

(15) An advertisement ~~shall~~ may not create the impression that the life settlement provider, its financial condition or status, the payment of its claims, or the merits, desirability, or advisability of its life settlements are recommended or endorsed by any government entity.

(16)(a) The name of the actual licensee shall be stated in ~~all of~~ its advertisements.

~~(b)~~ An advertisement ~~shall~~ may not use a trade name, ~~any~~ a group designation, name of ~~any~~ an affiliate or controlling entity of the licensee, service mark, slogan, symbol, or other device in a manner that ~~would have~~ has the capacity or tendency to mislead or deceive as to the true identity of the actual licensee or create the false impression that an affiliate or controlling entity ~~would have~~ has any responsibility for the financial obligation of the licensee.

(17) An advertisement ~~shall~~ may not, directly or indirectly, create the impression that any division or agency of the state or of the U.S. government endorses, approves, or favors:

(a) ~~any~~ a life settlement licensee~~[or]~~, its business practices, or methods of operations;

(b) the merits, desirability, or advisability of ~~any~~ a life settlement;

(c) ~~any~~ a life settlement; or

(d) ~~any~~ a life insurance policy or life ~~insurance company~~ insurer.

(18) If ~~the~~ an advertisement emphasizes the speed with which ~~the~~ a settlement will occur, the ~~advertising must~~

~~advertisement shall~~ disclose the average time frame from completed application to the date of offer and from acceptance of the offer to receipt of the funds by the owner.

(19) If ~~the advertising~~ an advertisement emphasizes the dollar amounts available to owners, the ~~advertising~~ advertisement shall disclose the average purchase price as a percent of face value obtained by owners contracting with the licensee during the past six months.

#### **R590-222-12. Reporting of Fraud.**

(1) ~~A person engaged in the business of life settlements under Title 31A, Chapter 36,~~ A life settlement licensee that knows or ~~has reasonable cause to suspect~~ suspects that any person ~~has~~ violated or will violate ~~any provision of~~ Section 31A-36-113, shall, upon acquiring the knowledge, promptly notify the commissioner and provide ~~the commissioner with~~ a complete and accurate statement of all ~~of the~~ relevant facts and circumstances.

~~(2)~~ Any other person acquiring such knowledge may furnish the information to the commissioner in the same manner.

~~(3)~~ The fraud report is a protected communication and when made without actual malice does not subject the person making the report to ~~any~~ liability~~[- whatsoever]~~.

~~(4)~~ The commissioner may suspend, revoke, or refuse to renew the license of ~~any~~ a person who fails to comply with this section.

#### **R590-222-13. Prohibited Practices.**

(1)(a) A life settlement provider or life settlement producer shall obtain from a person~~[- that]~~, who is provided with patient identifying information, a signed affirmation that the person ~~or entity~~ will not further divulge the patient identifying information without procuring the express, written consent of the insured for the disclosure.

~~(b)~~ Notwithstanding ~~the foregoing~~ Subsection (1)(a), if a life settlement provider or a life settlement producer ~~is served with~~ produces records containing patient identifying information pursuant to a subpoena, ~~and, therefore, compelled to produce records containing patient identifying information, it shall notify~~ the owner and the insured shall be notified, in writing, at their last known addresses and within five business days after receiving notice of the subpoena.

(2) A life settlement provider ~~shall~~ may not ~~also~~ act as a life settlement producer in the same life settlement, whether entitled to collect a fee directly or indirectly.

(3) A life settlement producer ~~shall~~ may not seek or obtain ~~any~~ compensation from the owner without ~~the~~ first obtaining the owner's written agreement ~~of the owner obtained prior to~~ before performing ~~any services~~ a service in connection with a life settlement.

(4) A life settlement provider or life settlement producer ~~shall~~ may not unfairly discriminate in the making or soliciting of life settlements, or discriminate between owners with dependents and without dependents.

(5) A life settlement provider or life settlement producer ~~shall~~ may not pay or offer to pay ~~any~~ a finder's fee, commission, or other compensation to ~~any~~ an insured's physician, ~~or to an~~ attorney, accountant, or ~~other~~ another person providing medical, legal, or financial planning services to the owner~~[s]~~ or to ~~any other~~ a person acting as an agent of the owner, other than a life settlement producer, ~~with respect to~~ regarding the life settlement.

**R590-222-14. Filing ~~of~~ Forms.**

~~[(1) All forms to be]~~(1)(a) A form used for a life settlement shall be filed with the commissioner ~~[prior to use. The department is not required to review each form and does not provide approval for a filing] before use. [The forms will be identified as]~~

(b) A form is a "filed for use" filing when the compliant form is submitted to the department ~~[with all requirements]~~.

(c) The following forms ~~[to]~~ shall be filed ~~[include the ]~~:

- ~~\_\_\_\_\_~~ (i) life settlement~~[-]~~;
- ~~\_\_\_\_\_~~ (ii) disclosure to the owner~~[-]~~;
- ~~\_\_\_\_\_~~ (iii) notice of intent to settle~~[-]~~;
- ~~\_\_\_\_\_~~ (iv) verification of coverage~~[-]~~; and
- ~~\_\_\_\_\_~~ (v) application.

(2) A form filing ~~[consists of]~~ shall include:

(a) a cover letter on the licensee's letterhead ~~[that provides the following]~~ providing:

(i) a list of the forms being filed, by title and ~~[any ]~~ identification number ~~[given the document]~~;

(ii) a description of the filing; and

(iii) an indication ~~[whether]~~ if the form:

(A) is a new filing; or

(B) is replacing or modifying a previously filed form ~~[- if so, describe -]~~, including the changes ~~[being]~~ made, the reason for the changes, and the ~~[date previously]~~ previous filing's filed date; and

(b) a copy of each form to be filed.

(3) The form filing and any ~~[responses must]~~ response shall be submitted ~~[via]~~ by email to life.uid@utah.gov.

(4) If a filing ~~[has been]~~ is rejected, the filing ~~[must]~~ shall be resubmitted as a new filing.

(5) If a ~~[Filing Objection Letter has been]~~ filing objection letter is issued, the response ~~[must]~~ shall include:

(a) a new cover letter identifying the changes made; and

(b) ~~[one]~~ a copy of the revised form.

(6) ~~[Companies]~~ A person may request the status of their filing by email, telephone, or mail after 30 days from the date of submission.

**~~R590-222-15. Enforcement Date.~~**

~~The commissioner will begin enforcing the revised provisions of this rule 30 days from the rule's effective date.~~

**~~R590-222-16. Penalties.~~**

~~A person found, after an administrative proceeding, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.~~

**R590-222-~~[17]~~15. Severability.**

~~[If any provision or clause of this rule or its application to any person or situation is held to be invalid, such invalidity may not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.] If any provision of this rule, Rule R590-222, 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, life settlement

**Date of Last Change:** ~~[September 23, 2013]~~ 2023

**Notice of Continuation:** May 1, 2023

**Authorizing, and Implemented or Interpreted Law:** 31A-2-201; 31A-36-119

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R590-249</b>	<b>Filing ID:</b> <b>55452</b>
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**Agency Information**

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

**Please address questions regarding information on this notice to the persons listed above.**

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

R590-249. Secondary Medical Condition Exclusion

**3. Purpose of the new rule or reason for the change:**

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:**

The majority of the changes are being done to fix style issues to bring this rule text more in line with the Utah Rulewriting Manual standards.

Other changes make the language of this rule more clear, add a Definitions (new R590-249-3) section, remove the Enforcement Date (old R590-249-6) and Penalties (old R590-249-5) sections, and update the Severability (new R590-249-6) section to use the Department's current language.

The changes do not add, remove, or change any regulations or requirements.

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

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

**B) Local governments:**

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

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

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

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

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

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

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

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

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

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

<b>Fiscal Cost</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.			

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

Section 31A-2-201		
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**Public Notice Information****8. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	07/17/2023
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**9. This rule change MAY become effective on:**

07/25/2023

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	06/01/2023
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**R590. Insurance, Administration.****R590-249. Secondary Medical Condition Exclusion.****R590-249-1. Authority.**

This rule is promulgated by the commissioner pursuant to ~~[Subsections 31A-2-201(3) wherein the commissioner may adopt rules to implement the provisions of Title 31A and 31A-22-613.5(2)(e) wherein the commissioner shall develop examples of limitations or exclusions of a secondary medical condition]~~Section 31A-2-201.

**R590-249-2. Purpose and Scope.**

(1) The purpose of this rule is to establish examples of coverage limitations or exclusions~~[from coverage]~~, including a related secondary ~~[conditions]~~condition as required under Section 31A-22-613.5.

(2) This rule applies to ~~[all]~~an insurer offering a health benefit plan[s].

**R590-249-3. Definitions.**

Terms used in this rule are defined in Section 31A-1-301.

**R590-249-4. General Instructions.**

~~[The]~~An insurer shall provide a clear written statement that discloses [the policy limitations and exclusions]any policy limitation or exclusion, including a related secondary medical condition[s], that [are-]is set forth in the policy:

- (1) upon application;
- (2) when requested by the insured; and
- (3) in any materials a carrier is required to provide to an insured, including the Summary of Benefits and Coverage as defined in 45 CFR 147.200.

**R590-249-[4]5. Examples.**

The following are examples of permissible policy limitations or exclusions ~~[examples]~~and are not all inclusive:

- (1) ~~[charges-]a charge~~ in connection with reconstructive or plastic surgery that may have a limited benefit[s], such as~~[ ]~~ a chemical peel that does not alleviate a functional impairment;
- (2) ~~[complications-]a complication~~ relating to services and supplies for, or in connection with~~[ ]~~:
  - ~~[ ]~~ (a) gastric or intestinal bypass~~[ ]~~;
  - ~~[ ]~~ (b) gastric stapling~~[ ]~~ or other~~[ ]~~;
  - ~~[ ]~~ (c) a similar surgical procedure to facilitate weight loss~~[ ]~~, or for, or in connection with~~[ ]~~;
  - ~~[ ]~~ (d) a procedure related to the reversal or revision of ~~[such procedures-]a procedure in Subsections (2)(a) through (2)(c); or~~
  - ~~[ ]~~ (e) any direct complication[s] or consequence~~[s thereof]~~ of a procedure in Subsections (2)(a) through (2)(d);
- (3) ~~[complications by-]a complication~~ due to infection from a cosmetic procedure, except in ~~[cases-]a case~~ of reconstructive surgery:
  - (a) when the service is incidental to or follows a surgery resulting from trauma, infection, or other disease[s] of the involved part; or
  - (b) related to a congenital disease or anomaly of a covered dependent child that has resulted in functional defect; or
  - (4) ~~[complications-]a complication~~ that results from an injury or illness resulting from ~~[active-]voluntary~~ participation in an illegal ~~[activities]~~activity described in Section R590-227-4.

**~~[R590-249-5. Penalties.~~**

~~Any insurer found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to the penalties as provided under Section 31A-2-308.~~

**R590-249-6. Enforcement Date.**

~~The commissioner will begin enforcing this rule January 1, 2016.~~

**R590-249-[7]6. Severability.**

~~[If any provision or portion of this rule or the application of it to any person, company or circumstance is for any reason held to be invalid, the remainder of the rule or the applicability of the provision to other persons, companies, or circumstances shall not be affected.]If any provision of this rule, Rule R590-249, 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:** health insurance, exclusions

**Date of Last Change:** ~~2023~~October 10, 2014

**Notice of Continuation:** December 21, 2018

**Authorizing, and Implemented or Interpreted Law:** 31A-22-613.5

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** Repeal and Reenact

**Rule or Section Number:**

**R590-274**

**Filing ID:**  
**55453**

**Agency Information**

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

**Please address questions regarding information on this notice to the persons listed above.**

## General Information

### 2. Rule or section catchline:

R590-274. Submission and Required Disclosures of Public Adjuster Contracts

### 3. Purpose of the new rule or reason for the change:

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:

The majority of the changes are being done to fix style issues to bring this rule text more in line with the Utah Rulewriting Manual standards.

Other changes make the language of this rule more clear, remove the Penalties (R590-274-8) and Enforcement Date (old R590-274-9) sections, and update the Severability (new R590-274-8) section to use the Department's current language.

The changes do not add, remove, or change any regulations or requirements.

## Fiscal Information

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

#### A) State budget:

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

#### B) Local governments:

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

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

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

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

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

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

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

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

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

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

#### Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.



**Citation Information**

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

Section 31A-26-401	Section 31A-26-403	
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**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	07/17/2023
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<b>9. This rule change MAY become effective on:</b>	07/25/2023
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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**

<b>Agency head or designee and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	06/01/2023
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**R590. Insurance, Administration.****R590-274. Submission and Required Disclosures of Public Adjuster Contracts.****[R590-274-1. Authority.**

This rule is promulgated by the commissioner pursuant to Sections 31A-26-401 and 31A-26-403.

**R590-274-2. Purpose and Scope.**

- (1) The purpose of this rule is to:
  - (a) Set forth procedures on how public adjusters must submit required form filings to the commissioner pursuant to Section 31A-26-401; and
  - (b) provide notice requirements, information and disclosures that must be included in the adjuster contracts.
- (2) This rule applies to resident and nonresident public adjusters.

**R590-274-3. Definitions.**

In addition to the definitions in Sections 31A-1-301 and 31A-19a-102, the following definitions shall apply for the purpose of this rule:

- (1) "Certification" means a statement that the filing being submitted is in compliance with Utah laws and rules.
- (2) "Electronic Filing" means a filing submitted via an email system.
- (3) "File And Use" means a filing can be used, sold, or offered for sale after it has been filed with the department.
- (4) "Filer" means a person who submits a filing.
- (5) "Filing Objection Letter" means a letter issued by the commissioner when a review has determined the filing fails to comply with Utah law and rules. The filing objection letter may, in

addition to requiring correction of non-compliant items, request clarification or additional information pertaining to the filing.

(6) "Form" for the purposes of this rule form shall also include contracts.

(7) "Order to Prohibit Use" means an order issued by the commissioner that prohibits the use of a filing.

(8) "Rejected" means a filing is:

(a) not submitted in accordance with applicable laws and rules;

(b) returned to the filer by the department with the reasons for rejection; and

(c) not considered filed with the department.

(9) "Utah Filed Date" means the date provided to a filer by the Utah Insurance Department that indicates a filing has been accepted.

**R590-274-4. General Filing Information.**

(1) Each filing submitted must be accurate, consistent, complete, and contain all required documents in order for the filing to be processed in a timely and efficient manner. The commissioner may request any additional information deemed necessary.

(2) The filer is responsible for assuring that a filing is in compliance with Utah laws and rules. A filing not in compliance with Utah laws and rules is subject to regulatory action under Section 31A-2-308.

(3) A filing that does not comply with this rule will be rejected and returned to the filer. A rejected filing:

(a) is not considered filed with the department and may not be used;

(b) will not be reopened for purposes of resubmission, a new filing is required.

(4) A prior filing will not be researched to determine the purpose of the current filing. The submitted filing must be complete.

(5) The department does not review or proofread every filing.

(a) A filing may be reviewed:

(i) when submitted;

(ii) as a result of a complaint;

(iii) during a regulatory examination or investigation; or

(iv) at any other time the commissioner deems necessary.

(b) If a filing is reviewed and is not in compliance with Utah laws and rules, A Filing Objection Letter or an Order To Prohibit Use will be issued to the filer. The commissioner may require the licensee to disclose deficiencies in forms to affected consumers.

(6) Filing correction:

(a) If the filing is in a review status corrections can be made at any time.

(b) If the filing has been closed a new filing is required. The filer must reference the original filing in the filing description.

(7) Response to a Filing Objection Letter. When responding to a Filing Objection letter a filer must:

(a) provide an explanation identifying all changes made;

(b) include an underline and strikeout version for each revised document;

(c) a final version of revised documents that incorporates all changes.

(8) Response to an Order to Prohibit Use.

(a) An Order to Prohibit Use becomes final 15 days after the date of the order.

(b) Use of the filing must be discontinued no later than the date specified in the Order.



\_\_\_\_\_ (c) To contest an Order to Prohibit Use, the commissioner must receive a written request for a hearing no later than 15 days after the date of the Order.

\_\_\_\_\_ (d) A new filing is required if the licensee chooses to make the requested changes addressed in the Filing Objection Letter. The new filing must reference the previously prohibited filing.

\_\_\_\_\_ (9) Filing withdrawal. A filer must notify the department when withdrawing a previously filed form.

#### **R590-274-5. Filing Requirements.**

\_\_\_\_\_ (1) All filings must be submitted as an electronic filing via email at [peforms@utah.gov](mailto:peforms@utah.gov).

\_\_\_\_\_ (2) A complete filing consists of the following:

\_\_\_\_\_ (a) the title of the email must display the company name only;

\_\_\_\_\_ (b) the filer must certify that a filing has been properly completed and is in compliance with Utah laws and rules;

\_\_\_\_\_ (i) To certify the following statement must be included in the email: "BY SUBMITTING THIS FILING I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH UTAH ADMINISTRATIVE RULE R590-274 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES".

\_\_\_\_\_ (ii) A filing will be rejected if the certification is false, missing, or incomplete.

\_\_\_\_\_ (iii) A certification that is false may subject the licensee to administrative action.

\_\_\_\_\_ (c) provide a description of the filing including:

\_\_\_\_\_ (i) the intent of the filing; and

\_\_\_\_\_ (ii) the purpose of each document within the filing.

\_\_\_\_\_ (d) indicate if the filing:

\_\_\_\_\_ (i) is new;

\_\_\_\_\_ (ii) is replacing or modifying a previous submission; if so, describe the changes made, if previously rejected the reasons for rejection, and previous filing's Utah Filed Date; and

\_\_\_\_\_ (e) identify if any of the provisions are unusual, controversial, have been previously objected to, or prohibited, and explain why the provision is included in the filing.

\_\_\_\_\_ (3) Forms being submitted for filing:

\_\_\_\_\_ (a) must be in PDF format;

\_\_\_\_\_ (b) are considered "File And Use" filings;

\_\_\_\_\_ (c) each form must be identified by a unique form number. The form number may not be a variable; and

\_\_\_\_\_ (d) must be in final printed form. A draft may not be submitted.

#### **R590-274-6. Contract Requirements.**

\_\_\_\_\_ (1) The contract must contain the following:

\_\_\_\_\_ (a) the name of the company that employs the public adjuster;

\_\_\_\_\_ (b) the mailing and physical address of the public adjuster's principal place of business;

\_\_\_\_\_ (c) the public adjuster's telephone and fax number;

\_\_\_\_\_ (d) the license number of the public adjuster and the Employer;

\_\_\_\_\_ (e) the public adjuster's email address;

\_\_\_\_\_ (f) the public adjuster's website, if applicable;

\_\_\_\_\_ (g) the date and time the contract was signed and, if applicable, the service of process address for nonresident public adjusters;

\_\_\_\_\_ (h) a general description of services the public adjuster will provide under the contract;

\_\_\_\_\_ (i) a description of the claim, property damage, location, and event;

\_\_\_\_\_ (j) if based on an hourly rate, a provision that the public adjuster will provide an invoice for services that includes a detailed listing of service provided and separate costs payable to the public adjuster as part of any commission based on the claim settlement, including expenses, direct costs, and any other accrued costs; and

\_\_\_\_\_ (k) all terms or conditions that apply to the contract.

\_\_\_\_\_ (2) The contract may not contain any terms or conditions that have the effect of limiting or nullifying any requirements of the law.

\_\_\_\_\_ (3) A signed copy of the contract must be provided to the insured at the time of signing.

#### **R590-274-7. Required Disclosures.**

\_\_\_\_\_ (1) The following separate disclosures are required in no smaller than 12 point boldface type to be located on the signature page of the contract:

\_\_\_\_\_ (a) "WE REPRESENT THE INSURED ONLY";

\_\_\_\_\_ (b) "THIS CONTRACT MAY BE RESCINDED IN WRITING WITHIN 10 DAYS OF ENTERING INTO THE CONTRACT"; and

\_\_\_\_\_ (c) "YOU ARE ENTERING INTO A CONTRACT OF SERVICE. YOU ARE BEING CHARGED A FEE FOR THIS SERVICE. YOU DO NOT HAVE TO ENTER INTO THIS CONTRACT TO MAKE A CLAIM FOR LOSS OR DAMAGE ON A POLICY OF INSURANCE".

\_\_\_\_\_ (2) A contract must contain the following statements in substantially the following form:

\_\_\_\_\_ (a) A public adjuster may not participate directly or indirectly in the reconstruction, repair, or restoration of damaged property, or engage in any other activities that may reasonably be construed as presenting a conflict of interest, including soliciting or accepting any remuneration from, or having a financial interest in, any salvage firm, construction firm, repair firm, or other firm that obtains business in connection with any claim the public insurance adjuster has a contract or agreement to adjust.

\_\_\_\_\_ (b) A public adjuster may not act on behalf of an attorney by having you sign an attorney representation agreement.

\_\_\_\_\_ (c) A public adjuster cannot require you to sign a power of attorney.

\_\_\_\_\_ (d) A public adjuster cannot require you to refuse to work with your insurer.

\_\_\_\_\_ (e) Your insurance policy requires you to cooperate with your insurer to settle your claim

\_\_\_\_\_ (f) IMPORTANT NOTICE: You may contact the Utah Insurance Department to verify that the public adjuster is licensed to do business in Utah, what your rights are as a consumer, or for information about filing a complaint, by calling 801-957-9305 or toll free at 800-439-3805, or by visiting the department's website at [www.insurance.utah.gov](http://www.insurance.utah.gov).

\_\_\_\_\_ (g) A public adjuster may not enter into a contract with an insured and collect compensation as provided in the contract without actually performing the service customarily provided by a licensed public adjuster for the insured.

\_\_\_\_\_ (3)(a) A public adjuster contract must contain the following compensation disclosures in a clear and prominent statement:

\_\_\_\_\_ (i) if an hourly rate, the contract must state the hourly rate and how it will be applied to hours of service provided by the public adjuster to calculate the amount payable;

\_\_\_\_\_ (ii) if a flat fee, the contract must state the amount that will be payable to the public adjuster;

~~(iii) if a percentage, the contract must state the exact percentage that will be applied to the settlement of the claim to calculate the amount payable to the public insurance adjuster; or~~

~~(iv) if another method of calculation is chosen, the contract must include a detailed explanation of how the amount payable will be determined based on service provided by the public adjuster.~~

~~(b) A public adjuster may not receive compensation in return for referring the insured to a particular attorney, appraiser, umpire, construction company, contractor, repair firm or salvage company.~~

~~(c) A public adjuster may not receive compensation for a claim if the insurer commits in writing to pay or pays the policy limits within 72 hours of the loss report.~~

~~(d) Except for direct payment of compensation by the insured, all drafts or checks must include the insured as a payee and require their written signature and endorsement. Public adjusters may not sign or endorse any payment draft or check on behalf of the insured.~~

~~(e) A public adjuster may not enter into a contract with an insured and collect compensation as provided in the contract without actually performing the service customarily provided by a licensed public adjuster for the insured.~~

#### **R590-274-8. Penalties.**

~~A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.~~

#### **R590-274-9. Enforcement Date.**

~~The commissioner will begin enforcing the revised provisions of this rule 15 days from the effective date of this rule.~~

#### **R590-274-10. Severability.**

~~If any provision of this rule or its application to any person or situation is held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.]~~

#### **R590-274-1. Authority.**

~~This rule is promulgated by the commissioner pursuant to Sections 31A-26-401 and 31A-26-403.~~

#### **R590-274-2. Purpose and Scope.**

~~(1) The purpose of this rule is to:~~

~~(a) set forth procedures for a public adjuster to submit a required form filing to the commissioner; and~~

~~(b) provide notice requirements, information, and disclosures that must be included in an adjuster contract.~~

~~(2) This rule applies to a resident or nonresident public adjuster.~~

#### **R590-274-3. Definitions.**

~~Terms used in this rule are defined in Sections 31A-1-301 and 31A-19a-102. Additional terms are defined as follows:~~

~~(1) "Certification" means a statement that a submitted filing is compliant.~~

~~(2) "Compliant" means a filing that is complete and that complies with Title 31A, Insurance Code, and this rule.~~

~~(3) "Electronic filing" means a filing submitted using an email system.~~

~~(4) "File and use" means a filing is used, sold, or offered for sale after it is filed with the department.~~

~~(5) "Filer" means a person who submits a filing.~~

~~(6) "Filing objection letter" means a letter issued by the commissioner when a review determines the filing is not compliant and may require:~~

~~(a) correction of non-compliant items;~~

~~(b) clarification; or~~

~~(c) additional information pertaining to the filing.~~

~~(7) "Form" has the same meaning as "contract" for the purposes of this rule.~~

~~(8) "Order to prohibit use" means an order issued by the commissioner prohibiting the use of a filing.~~

~~(9) "Rejected" means a filing is:~~

~~(a) not compliant;~~

~~(b) returned to the filer stating the reason for rejection; and~~

~~(c) not considered filed with the department.~~

~~(10) "Utah filed date" means the date the department indicates a filing is accepted.~~

#### **R590-274-4. General Filing Information.**

~~(1)(a) A filing shall be accurate, consistent, complete, and contain all required documents.~~

~~(b) The commissioner may request additional information, as necessary.~~

~~(2) A filer is responsible for assuring that a filing is compliant.~~

~~(3) A filing that is not compliant will be rejected and returned to the filer.~~

~~(4) A rejected filing:~~

~~(a) is not considered filed;~~

~~(b) shall not be used;~~

~~(c) shall be submitted as a new filing; and~~

~~(d) may not be reopened for purposes of resubmission.~~

~~(5) A prior filing will not be researched to determine the purpose of the current filing.~~

~~(6) The department does not review every filing.~~

~~(a) A filing may be reviewed:~~

~~(i) when submitted;~~

~~(ii) when a complaint is received;~~

~~(iii) during a regulatory examination or investigation; or~~

~~(iv) when the commissioner considers a review necessary.~~

~~(b) If a filing is reviewed and is found not complaint, the commissioner:~~

~~(i) shall issue a filing objection letter or an order to prohibit use; and~~

~~(ii) may require an insurer to disclose deficiencies in a form or rating practice to each affected consumer.~~

~~(7) Correcting a Filing.~~

~~(a) A correction to a filing in a review status may be made at any time.~~

~~(b) A correction to a filing in a closed status:~~

~~(i) may not be made;~~

~~(ii) requires a new filing; and~~

~~(iii) shall reference the original filing in the filing description of the new filing.~~

~~(8) Response to a Filing Objection Letter. A response to a filing objection letter shall include:~~

~~(a) an explanation identifying each change;~~

~~(b) an underline and strikeout version of each revised document; and~~

~~(c) a final version of each revised document incorporating all changes.~~

- (9) Response to an Order to Prohibit Use.  
(a) An order to prohibit use becomes final 15 days after the date of the order.  
(b) Use of a filing shall be discontinued no later than the date specified in the order.  
(c) To contest an order to prohibit use, a written request for a hearing shall be submitted no later than 15 days after the date of the order.  
(d) A new filing is required if the filer chooses to make the requested changes addressed in the filing objection letter, and shall reference the previously prohibited filing.  
(10) A filer shall notify the department when withdrawing a previously filed form.  
(11) A filing that is withdrawn may not be used.

#### **R590-274-5. Filing Requirements.**

- (1) Forms in General.  
(a) A form is a file and use filing.  
(b) A form shall be submitted in PDF format.  
(c) A form shall be identified by a unique form number that may not be variable.  
(d) A form shall be in final printed form and may not be submitted as a draft.  
(e) Blank spaces within a form shall be completed to accurately represent the purpose and use.  
(2) A filing shall be submitted as an electronic filing via email at [pcforms@utah.gov](mailto:pcforms@utah.gov).  
(3) A complete filing shall contain the following information, in the sequence listed.  
(a) The title of the email shall display the company name only.  
(b) The filer shall certify that a filing is complete and compliant.  
(i) To certify, the following statement shall be included in the email: "BY SUBMITTING THIS FILING I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH UTAH ADMINISTRATIVE RULE R590-274 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES."  
(ii) A filing may be rejected if the certification is false, missing, or incomplete.  
(iii) A false certification may subject the licensee to administrative action.  
(c) Provide a description of the filing, including:  
(i) the intent of the filing; and  
(ii) the purpose of each document within the filing.  
(d) Indicate if the filing:  
(i) is new; or  
(ii) is replacing or modifying a previous filing, describing the changes made, the reasons for the previous rejection, and the previous filing's Utah filed date.  
(e) Identify any provision that is unusual, innovative, controversial, or that was previously objected to or prohibited, and explain why the provision is included in the filing.

#### **R590-274-6. Contract Requirements.**

- (1) A contract shall contain the following:  
(a) the name of the company that employs the public adjuster;  
(b) the mailing and physical addresses of the public adjuster's principal place of business;  
(c) the public adjuster's telephone and fax numbers;

- (d) the license number of the public adjuster and the employer;  
(e) the public adjuster's email address;  
(f) the public adjuster's website, if applicable;  
(g) the date and time the contract was signed and, if applicable, the service of process address for a nonresident public adjuster;  
(h) a general description of services the public adjuster will provide under the contract;  
(i) a description of the claim, property damage, location, and event;  
(j) if based on an hourly rate, a provision that the public adjuster shall provide an invoice for services that includes a detailed listing of service provided and separate costs payable to the public adjuster as part of any commission based on the claim settlement, including expenses, direct costs, and any other accrued costs; and  
(k) any term or condition that applies to the contract.  
(2) A contract may not contain a term or condition that limits or nullifies any law.  
(3) A signed copy of the contract shall be provided to the insured at the time of signing.

#### **R590-274-7. Required Disclosures.**

- (1) The following separate disclosures shall be located on the signature page of the contract in no smaller than 12-point boldface type:  
(a) "WE REPRESENT THE INSURED ONLY";  
(b) "THIS CONTRACT MAY BE RESCINDED IN WRITING WITHIN 10 DAYS OF ENTERING INTO THE CONTRACT"; and  
(c) "YOU ARE ENTERING INTO A CONTRACT OF SERVICE. YOU ARE BEING CHARGED A FEE FOR THIS SERVICE. YOU DO NOT HAVE TO ENTER INTO THIS CONTRACT TO MAKE A CLAIM FOR LOSS OR DAMAGE ON A POLICY OF INSURANCE."  
(2) A contract shall contain the following statements in substantially the following form:  
(a) A public adjuster may not participate directly or indirectly in the reconstruction, repair, or restoration of damaged property, or engage in any other activities that may reasonably be construed as presenting a conflict of interest, including soliciting or accepting any remuneration from, or having a financial interest in, any salvage firm, construction firm, repair firm, or other firm that obtains business in connection with any claim the public insurance adjuster has a contract or agreement to adjust.  
(b) A public adjuster may not act on behalf of an attorney by having you sign an attorney representation agreement.  
(c) A public adjuster cannot require you to sign a power of attorney.  
(d) A public adjuster cannot require you to refuse to work with your insurer.  
(e) Your insurance policy requires you to cooperate with your insurer to settle your claim.  
(f) IMPORTANT NOTICE: You may contact the Utah Insurance Department to verify that the public adjuster is licensed to do business in Utah, what your rights are as a consumer, or for information about filing a complaint, by calling 801-957-9305 or toll free at 800-439-3805, or by visiting the department's website, <https://insurance.utah.gov>.  
(g) A public adjuster may not enter into a contract with an insured and collect compensation as provided in the contract without

actually performing the service customarily provided by a licensed public adjuster for the insured.

(3)(a) A public adjuster shall contain the following compensation disclosures in a clear and prominent statement:

(i) if an hourly rate, the contract shall state the hourly rate and how it will be applied to hours of service provided by the public adjuster to calculate the amount payable;

(ii) if a flat fee, the contract shall state the amount payable to the public adjuster;

(iii) if a percentage, the contract shall state the exact percentage that will be applied to the settlement of the claim to calculate the amount payable to the public insurance adjuster; or

(iv) if another method of calculation is chosen, the contract shall include a detailed explanation of how the amount payable will be determined based on service provided by the public adjuster.

(b) A public adjuster may not receive compensation for referring the insured to a particular attorney, appraiser, umpire, construction company, contractor, repair firm, or salvage company.

(c) A public adjuster may not receive compensation for a claim if the insurer pays or commits in writing to pay the policy limits within 72 hours of the loss report.

(d)(i) Except for direct payment of compensation by the insured, any draft or check shall include the insured as a payee and shall require the written signature or endorsement of the insured.

(ii) A public adjuster may not sign or endorse any payment draft or check on behalf of the insured.

(e) A public adjuster may not enter into a contract with an insured or collect compensation as provided in the contract without performing the service customarily provided by a licensed public adjuster for the insured.

#### **R590-274-8. Severability.**

If any provision of this rule, Rule R590-274, 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, public adjusters**

**Date of Last Change: 2023[August 23, 2017]**

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

**Authorizing, and Implemented or Interpreted Law: 31A-26-401; 31A-26-403**

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

**TYPE OF FILING:** New

<b>Rule or Section Number:</b>	<b>R650-301</b>	<b>Filing ID:</b> <b>55445</b>
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#### **Agency Information**

<b>1. Department:</b>	Natural Resources
<b>Agency:</b>	Outdoor Recreation
<b>Room number:</b>	100
<b>Building:</b>	Department of Natural Resources
<b>Street address:</b>	1594 W North Temple, Suite 100
<b>City, state and zip:</b>	Salt Lake City, UT 84116

<b>Mailing address:</b>	1594 W North Temple, Suite 100	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chase Pili	801-707-5359	cpili@utah.gov
Rachel Toker	385-303-1519	racheltoker@utah.gov
Tara McKee	385-441-2702	tmckee@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

#### **General Information**

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

R650-301. Off Highway Vehicle Recreation Grant Program

##### **3. Purpose of the new rule or reason for the change:**

Utah Code Section 41-22-19 authorizes the Division of Outdoor Recreation (Division) to issue grants to fund the development of off-highway vehicle facilities, mitigate impacts of off-highway vehicle use, educate off-highway vehicle users, support off-highway vehicle access protection, promote and encourage off-highway vehicle tourism, and to further the policies of the off-highway vehicles section of the Motor Vehicle code.

Subsection 41-22-19(5) requires the Division to make rules as necessary to implement this section, including grant administration.

This rule implements this legislative mandate by establishing the application, eligibility, project selection, and reporting criteria and requirements for grant applicants and recipients.

##### **4. Summary of the new rule or change:**

This rule implements a legislative mandate by establishing the application, eligibility, project selection, and reporting criteria and requirements for grant applicants and recipients for off-highway vehicle grants.

#### **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 is clerical in nature and will have no impact on

how the Department of Natural Resources functions or the parties this applies to.

#### B) Local governments:

This proposed rule is not expected to have a fiscal impact on local governments' revenues or expenditures because this rule change is clerical in nature.

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

This proposed rule will not have a fiscal impact on small businesses as it lays out the administrative portions of the grant application and scoring process.

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

This proposed rule does not have a fiscal impact on non-small businesses nor will service be required of them to implement this rule.

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

This proposed rule will not have a fiscal impact on persons other than those listed above. This rule lays out the administrative portions of the grant application and scoring process.

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

There are no compliance costs for affected persons. This rule simply adds clarification to requirements and policy with no fiscal impact to other entities.

#### 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	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.

#### Citation Information

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

Section 41-22-19		
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#### Public Notice Information

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

A) Comments will be accepted until: 07/17/2023

9. This rule change MAY become effective on: 07/25/2023

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

#### Agency Authorization Information

Agency head or designee and title:	Jason Curry, Director	Date:	05/22/2023
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**R650. Natural Resources, Outdoor Recreation.****R650-301. Off Highway Vehicle Recreation Grant Program.****R650-301-1. Authority.**

(1) This rule is established pursuant to Sections 41-22-1 and 41-22-19 and applies to the Off-Highway Vehicle Recreation Grant Program.

(2) This rule governs procedures for Off-Highway Vehicle Grant Program applications, eligibility, project selection, and reporting and reimbursement requirements.

**R650-301-2. Definitions.**

In addition to the terms defined in Section 41-22-2:

(1) "Director" means the Director of the Division of Outdoor Recreation.

(2) "Executive Director" means the Executive Director of the Department of Natural Resources.

(3)(a) "Off-Highway Vehicle Access Protection," as used in Section 41-22-19 and this rule, includes:

(i) efforts by a county or municipality to document the existence of public rights of way under Section 72-5-104;

(ii) litigation or other legal advocacy to protect existing public lands access for off-highway vehicles; or

(iii) other efforts that further the interests of preserving existing off-highway vehicle access on Utah's public lands.

(b) "Off-Highway Vehicle Access Protection," as used in Section 41-22-19 and this rule, does not mean lobbying or other political advocacy.

**R650-301-3. Grant Application Form and Submission Procedure.**

(1) The Division shall provide a grant application form which shall be posted on the Division's website and contain the following content:

(a) grant application submission instructions;

(b) grants available for application;

(c) grant eligibility criteria;

(d) instructions regarding submission of a project description, including submission of a description of a project timeline;

(e) instructions for providing an outlined budget for total project costs;

(f) instructions for providing an explanation of funding already procured for the project;

(g) instructions for providing an itemized budget showing the planned use of any granted funds;

(h) identification of documents and information the Division determines are necessary for its verification and review of the application; and

(i) the weighted scoring system set out in R650-301-7.

(2) The Division shall supply a paper application to any person or entity requesting a paper application.

(3)(a) Applicants shall submit completed grant applications to the Division by no later than 5 p.m. on March 31 and July 31, except for applications for grant funds for land acquisition, which applicants may submit to the Division anytime during the fiscal year.

(b) The Division may change the deadlines in subsection (3)(a) should the deadlines fall on a weekend or State or Federal holiday.

(c) The Division shall offer applicants an early review option and provide feedback to grant applicants.

(i) The Division shall publish on the application website, and in grant program materials, the deadline by which an applicant shall submit a grant application in order to receive early review.

(d) The Division shall review a final application for completeness and shall verify the application meets the requirements set out in 41-22-19 and this rule.

**R650-301-4. Eligible Entities.**

Grants may be awarded only to the following entities within the State of Utah:

(1) Federal government agencies;

(2) Utah State agencies;

(3) Political subdivisions of the State; and

(4) Organized user groups as defined in Section 41-22-2(17).

**R650-301-5. Off-Highway Vehicle Recreation Grant Project Eligibility Criteria.**

(1) Except as provided in this rule, all granted funds require matching funding from the grant recipient.

(2) A grant recipient's match may be in the form of cash, labor, equipment, or materials, or donations of land from a third party, when the cash, labor, equipment, materials, or land is exclusively used for the proposed project.

(3)(a) Only labor hours spent directly advancing the proposed project may be used as a grant recipient's match.

(b) A grant recipient shall obtain the Division's approval of all labor hours proposed for use as the grant recipient's match before the grant recipient expends any labor hours on the proposed project.

(c) Donated materials and land shall be valued at fair market value based on an appraisal approved by the Division.

(4) Granted funds may be used:

(a) for the construction, improvement, operation, acquisition, or maintenance of publicly owned or administered Off-Highway Vehicle facilities, including public access facilities;

(b) for the mitigation of impacts associated with Off-Highway Vehicle use;

(c) for the education of Off-Highway Vehicle users;

(d) for Off-Highway Vehicle Access Protection;

(e) to support Off-Highway Vehicle search and rescue activities and programs;

(f) to promote and encourage Off-Highway Vehicle tourism; or

(g) for other uses that further the policy set forth in Section 41-22-1.

(5) Granted funds may be used for tourism promotion of a destination area to increase visitation if:

(a) the grant recipient is a county destination marketing organization or is partnered with one; and

(b) the grant recipient provides a cash match of at least 25% of the total project costs.

**R650-301-6. Off-Highway Vehicle Access Protection Grants.**

(1) Granted funds for Access Protection may be used:

(a) for projects that further the interest of preserving existing off-highway vehicle access on Utah's public lands;

(b) for projects that further the efforts of Utah counties or Utah municipalities to document the existence of public rights of way under Section 72-5-104; or

(c) if the project is one that includes costs related to litigation or other legal work, for a project where the Division, at its sole discretion, determines:

(i) that the Access Protection litigation or legal work is not unnecessarily duplicative of other Access Protection litigation or legal work already being undertaken, or that is expected to be undertaken, by another State agency or political subdivision;

(ii) that the Access Protection litigation or other legal work does not conflict with other Access Protection litigation or other legal work currently being undertaken, or that is expected to be undertaken, by another State agency or political subdivision; and

(iii) that the granted funds, when combined with the grant recipient's match, will be sufficient to produce a deliverable product that substantially advances the interests of Access Protection.

(2) No granted funds may be used:

(a) to bring suit, or assert any claim, against private landowners or any Utah State agency or political subdivision;

(b) for overhead expenses; or

(c) for travel expenses which the Division, at its sole discretion, determines are unnecessary or unreasonable.

#### **R650-301-7. Method And Formula for Determining Grant Recipients.**

(1) The Division shall:

(a) use a weighted scoring system to enable the Advisory Council to analyze, advise, and recommend grants for award and grant amounts; and

(b) make the scoring system available in the grant application.

(2) The scoring system shall assess and value various categories, including whether the proposed project will:

(a) fit within at least one of the categories described in R650-301-5(4);

(b) use granted funds in a manner considered reasonable and necessary as determined by a submitted budget or past project performance that demonstrates the applicant's fiscal integrity;

(c) offer partnerships and cooperative efforts for the project among agencies and users, including opportunities for cooperative funding;

(d) be in a location that offers convenient proximity and access to users or has the potential to link with existing off-highway vehicle facilities;

(e) have the potential for multiple-season use or uses available to multiple user groups; or

(f) have a higher percentage of matching funding from the applicant.

(3) The Advisory Council shall, upon receipt of a grant application from the Division:

(a) review and consider the grant application; and

(b) recommend to the Division whether granted funds should be awarded based on the weighted scoring system identified in the grant application and according to the percentages outlined below:

(i) Trail work and acquisition, a minimum of 49%;

(ii) Search and rescue, a maximum of 23%;

(iii) Education and access protection, a maximum of 15%;

(iv) Snowmobile, a maximum of 10%; and

(v) OHV tourism promotion, a maximum of 3%.

(4) The Director and Executive Director shall select and approve grant applications based on the weighted scoring system identified in the grant application, taking into consideration recommendations from Division staff and the Advisory Council, which may be in the form of joint or separate recommendations.

(5) Within two weeks of the Director's and Executive Director's approvals, the Division shall notify applicants of the final decision on the applicant's grant application.

(6) The Division shall inform successful applicants of the expected contractual requirements.

(7) The Division shall inform unsuccessful applicants that their application was not successful.

(8) The Division shall inform the Commission of grants selected for awarded.

#### **R650-301-8. Reporting And Reimbursement Cooperation Requirements.**

(1) Grant recipients shall provide any financial records related to the grant project upon the Division's request.

(2) Grant recipients shall provide the Division with progress reports until the project is complete.

(3) Grant recipients shall provide to the Division a description and an itemized report detailing the expenditure of granted funds or the intended expenditure of any unspent granted funds.

(4) The reports referenced in subsections (2) and (3) shall be provided at least annually.

(5) Grant recipients shall submit a final report no later than 60 days after the grant contract has expired.

(6) The final report shall clearly demonstrate, and provide assurances, that all granted funds disbursed to the grant recipient have been used for the purposes specified in the grant recipient's grant application and grant contract.

(7) To request reimbursement for approved expenditures, grant recipients shall submit the following documentation to the Division:

(a) a reimbursement request on a form provided by the Division;

(b) copies of all invoices and evidence of payment, such as checks, bank statements, or receipts, as well as records of volunteer labor or other in-kind donations for work completed on the project;

(c) several photos or other documentation that show the project is complete;

(d) a final report with the description of the project and any other information requested by the Division; and

(e) any other documentation the Division deems necessary to ensure compliance with the grant contract.

(8) If granted funds have been expended within the State fiscal year (July-June), the reimbursement request referenced in subsection (7)(a) shall be submitted to the State by June 15.

(9)(a) At its sole discretion, the Division may advance no more than 75% of granted funds to the grant recipient before the project's completion if the grant recipient demonstrates it does not have the financial ability to pay project expenses during the contract period.

(b) Applicants shall state within the grant application that they intend to request advance granted funds.

(c) If the Division awards the grant, the grant recipient may request advance granted funds from the Division, outlining the need and expected use of the advanced granted funds for project costs incurred over twelve months.

(d) If the Division advances granted funds, the grant recipient shall provide a progress report and an accounting of all project expenditures pursuant to timelines set out by the Division in the grant contract.

(e) The Division shall provide the balance of granted funds to the grant recipient after the completion of the project and only after a final accounting of total project costs that details the expenditure of all granted funds or the intended cost of any unspent advanced granted funds.

(f) The grant contract shall provide any additional conditions that a grant recipient shall fulfill in order to receive advance granted funds, as well as any continuing obligations, including documentation requirements, that the grant recipient shall fulfill if advanced granted funds are received.

(10) All project expenditures shall occur during the contract period.

(11) The Division shall not provide the grant recipient with any granted funds for costs accrued before or after the contract period.

(12) A grant recipient shall submit documentation for reimbursement within 60 days following the contract expiration, provided that the grant recipient incurred the expense during the contract period.

(13) The grant recipient shall provide a description and an itemized report detailing the expenditure of all granted funds expended during the contract period.

(14) The grant recipient shall return to the Division any advanced granted funds not spent on the project.

**R650-301-9. Modifications To the Original Contract.**

Modifications to an original grant contract may be made only by subsequent, written amendment, approved by the associate Division Director and the Director, and signed by all parties to the original grant contract.

**KEY: outdoor recreation grants, off-highway vehicles**

**Date of Last Change: 2023**

**Authorizing, and Implemented or Interpreted Law: 41-22-19**

**End of the Notices of Proposed Rules Section**





## NOTICES OF CHANGES IN PROPOSED RULES

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After an agency has published a **PROPOSED RULE** in the *Utah State Bulletin*, it may receive comment that requires the **PROPOSED RULE** to be altered before it goes into effect. A **CHANGE IN PROPOSED RULE** allows an agency to respond to comments it receives.

As with a **PROPOSED RULE**, a **CHANGE IN PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **CHANGE IN PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends July 17, 2023.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (example). Deletions made to the rule appear struck out with brackets surrounding them (~~example~~). A row of dots in the text between paragraphs (. . . . .) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Office of Administrative Rules.

From the end of the 30-day waiting period through October 13, 2023, an agency may notify the Office of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses.

**CHANGES IN PROPOSED RULES** are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

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The Changes in Proposed Rules Begin on the Following Page

NOTICE OF CHANGE IN PROPOSED RULE		
<b>Rule or Section Number:</b>	<b>R384-415</b>	<b>Filing ID: 55390</b>
<b>Date of Previous Publication:</b>	<b>05/15/2023</b>	

**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Disease Control and Prevention, Health Promotion	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 142106	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-2106	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Braden Ainsworth	801-538-6187	tobaccorulescomments@utah.gov
McKenna Christensen	801-538-6260	tobaccorulescomments@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R384-415. Requirements to Sell Electronic Cigarette Products
<b>3. Reason for this change:</b>
The Department of Health and Human Services (Department) reviewed and evaluated the proposed rule amendment to Rule R384-415, and seeks to incorporate the following correction into the original rule amendment filing.
<b>4. Summary of this change:</b>
There is one change in this change in proposed rule (CPR), which is correcting an "and" to an "or" in Subsection R384-415-5(1)(a)(ii). The current Subsection R384-415-5(1)(a)(ii) uses the word "or" and the Department did not intend to change that aspect of the nicotine limit for electronic cigarette products in the original filing. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the May 15, 2023, issue of the Utah State

Bulletin, on page 89. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The Department does not expect the enactment of this CPR to have any fiscal cost to the state budget.
<b>B) Local government:</b>
The Department does not expect enactment of this CPR to have any fiscal impact on the local governments' revenues or expenditures, as local health departments will continue to conduct retail observations and investigations in accordance with respective state tobacco control laws, state administrative rules, and local health department regulations using existing allocated resources to enforce the CPR.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
The Department does not expect enactment of this CPR to have any direct fiscal cost to small businesses, as the CPR is correcting an unintended change which will return the proposed rule to the current way that nicotine content is determined in manufacturer sealed electronic cigarette products. The CPR maintains the nicotine levels as proposed in the original filing.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
The Department does not expect enactment of this CPR to have any direct fiscal cost to non-small businesses, as the CPR is correcting an unintended change which will return the proposed rule to the current way that nicotine content is determined in manufacturer sealed electronic cigarette products. The CPR maintains the nicotine levels as proposed in the original filing.
<b>E) Persons other than small businesses, non-small businesses, or state or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):
The Department does not expect enactment of this CPR to have any direct cost to persons, as the CPR is correcting an unintended change which will return the proposed rule to the current way that nicotine content is

determined in manufacturer sealed electronic cigarette products. The CPR maintains the nicotine levels as proposed in the original filing.

**F) Compliance costs for affected persons:**

The Department does not expect enactment of this CPR to have any compliance costs for affected persons.

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

**Regulatory Impact Table**

<b>Fiscal Cost</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.

**Citation Information**

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

Section 26B-7-505

**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.)

**A) Comments will be accepted until:** 07/17/2023

**9. This rule change MAY become effective on:** 07/25/2023

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	05/31/2023
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**R384. Health and Human Services, Disease Control and Prevention, Health Promotion.**

**R384-415. Requirements to Sell Electronic Cigarette Products.**

**R384-415-1. Authority and Purpose.**

(1) This rule is authorized by Section 26B-7-505.

(2) The purpose of this rule is to establish requirements to sell an electronic cigarette product regarding labeling, nicotine content, packaging, and product quality for non-manufacturer sealed electronic cigarette substances and manufacturer sealed electronic cigarette products.

(3) A person may only sell an electronic cigarette substance that is not a manufacturer sealed electronic cigarette substance that is compliant with the established requirements set forth in this rule.

(4) Beginning on July 1, 2021, a person may only sell a manufacturer sealed electronic cigarette product that is compliant with the established requirements set forth in this rule.

(5) A product in compliance with this rule is not endorsed as safe.

**R384-415-2. Definitions.**

As used in this rule:

(1) "Child resistant" means the same as the term "special packaging" is defined in 16 C.F.R 1700.1(a)(4) and is tested in accordance with the method described in 16 C.F.R. 1700.20.

(2) "Department" means the Utah Department of Health and Human Services.

(3) "Electronic cigarette" means the same as that term is defined in Section 76-10-101.

## NOTICES OF CHANGES IN PROPOSED RULES

(4) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(5) "Electronic cigarette substance" means the same as that term is defined in Section 76-10-101.

(6) "Local health department" means the same as that term is defined in Subsection 26A-1-102(5).

(7) "Industrial hemp product" means the same as that term is defined in Section 4-41-102.

(8) "Manufacture" means the same as that term is defined in Section 26B-7-501.

(9) "Manufacturer" means the same as that term is defined in Section 26B-7-501.

(10) "Manufacturer sealed electronic cigarette substance" means the same as that term is defined in Section 26B-7-501.

(11) "Mg/mL" means milligrams per milliliter, a ratio for measuring an ingredient, in liquid form, where accuracy is measured in milligrams per milliliter, or a percentage equivalent.

(12) "Manufacturer sealed electronic cigarette product" means the same as that term is defined in Section 26B-7-501.

(13) "Nicotine" means the same as that term is defined in Section 76-10-101.

(14) "Non-manufacturer sealed electronic cigarette substance" means:

(a) an electronic cigarette substance that is not a manufacturer sealed electronic cigarette substance; and

(b) an electronic cigarette substance container the electronic cigarette manufacturer does intend for a consumer to open or refill.

(15) "Package" or "packaging" means a pack, box, carton, or container of any kind, or if no other container, any wrapping, in which an electronic cigarette substance or a manufacturer sealed electronic cigarette product is offered for sale, sold, or otherwise distributed to consumers.

(16) "Permit" means the same as that term is defined in Section 26B-7-501.

(17) "Retailer" means any person who sells, offers for sale, exchanges, or offers to exchange for any form of consideration, a non-manufacturer sealed electronic cigarette substance or a manufacturer sealed electronic cigarette product to a consumer. This definition is without regard to the quantity of a non-manufacturer sealed electronic cigarette substance or a manufacturer sealed electronic cigarette product sold, offered for sale, exchanged, or offered for exchange.

(18) "Transaction statement" means a statement, in paper or electronic form, in which the manufacturer transferring ownership of the product certifies that the non-manufacturer sealed electronic cigarette substance or the manufacturer sealed electronic cigarette product is in compliance with the requirements in this rule.

### **R384-415-3. Labeling.**

(1) The retailer shall ensure that a nicotine containing non-manufacturer sealed electronic cigarette substance or a manufacturer sealed electronic cigarette product offered for sale to the consumer features on the product package label the required safety warning stating "WARNING: This product contains nicotine. Nicotine is an addictive chemical."

(2) Consistent with 21 C.F.R. 1143.3, the safety warning statements required in Subsection (1), the required safety warning

statement must appear directly on the package and shall be clearly visible underneath any cellophane or other clear wrapping as follows:

(a) be located in a conspicuous and prominent place on the two principal display panels of the package and the warning area must comprise at least 30% of each of the principal display panels;

(b) be printed in at least 12-point font size and ensures that the required warning statement occupies the greatest possible proportion of the warning area set aside for the required text;

(c) be printed in conspicuous and legible Helvetica bold or Arial bold type, or other sans serif fonts, and in black text on a white background or white text on a black background in a manner that contrasts by typography, layout, or color, with other printed material on the package;

(d) be capitalized and punctuated as indicated in Subsection (1); and

(e) be centered in the warning area in which the text is required to be printed and positioned such that the text of the required warning statement and the other information on the principal display panel have the same orientation.

(3) The retailer shall ensure that a non-manufacturer sealed electronic cigarette substance marketed as nicotine-free and offered for sale to the consumer features a safety warning stating "WARNING: Keep away from children and pets."

(4) The safety warning statements required in Subsection (3) must appear directly on the package and must be clearly visible underneath any cellophane or other clear wrapping as follows:

(a) be located in a conspicuous and prominent place on the two principal display panels of the package and the warning area must comprise at least 30% of each of the principal display panels;

(b) be printed in at least 12-point font size and ensures that the required warning statement occupies the greatest possible proportion of the warning area set aside for the required text;

(c) be printed in conspicuous and legible Helvetica bold or Arial bold type, or other sans serif fonts, and in black text on a white background or white text on a black background in a manner that contrasts by typography, layout, or color, consistent with the other printed material on the package;

(d) be capitalized and punctuated as indicated in Subsection (3); and

(e) be centered in the warning area in which the text is required to be printed and positioned such that the text of the required warning statement and the other information on the principal display panel have the same orientation.

(5) A retailer will not be in violation of this section for packaging that:

(a) contains a health warning;

(b) is supplied to the retailer by the electronic cigarette product manufacturer, importer, or distributor, who has the required state, local, or tobacco tax license or permit, if applicable; and

(c) is not altered by the retailer in a way that is material to the requirements of this section.

(6) A non-manufacturer sealed electronic cigarette substance or a manufacturer sealed electronic cigarette product package that would otherwise be required to bear the safety warning in Subsection (1) or (3) but is too small or otherwise unable to accommodate a safety warning label with sufficient space to bear such information is exempt from compliance with the requirement provided that:

(a) the information and specifications required in Subsections (1) and (3) appear on the carton or other outer container or wrapper if the carton, outer container, or wrapper has sufficient space to bear the information; or

(b) appear on a tag otherwise firmly and permanently affixed to the non-manufacturer sealed electronic cigarette substance package or the manufacturer sealed electronic cigarette product package.

(7) In the case of Subsection (6)(a) or (b), the carton, outer container, wrapper, or tag will serve as the location of the principal display panels.

(8) The retailer shall ensure that an industrial hemp product that is a non-manufacturer sealed electronic cigarette substance or an industrial hemp product that is a manufacturer sealed electronic cigarette product is compliant with Title 4, Chapter 41, Part 1, Industrial Hemp and Section R68-26-5, unless:

(a) an industrial hemp product that is a non-manufacturer sealed electronic cigarette substance marketed as containing nicotine and offered for sale or an industrial hemp product that is a manufacturer sealed electronic cigarette product marketed as containing nicotine and offered for sale is in compliance with the safety warning requirements in Subsections (1) and (2); or

(b) an industrial hemp product that is a non-manufacturer sealed electronic cigarette substance marketed as nicotine-free and offered for sale is exempt from the safety warning requirements in Subsections (3) and (4) if the product is compliant with Title 4, Chapter 41, Part 1, Industrial Hemp and Section R68-26-5.

#### **R384-415-4. Prohibited Sales.**

(1) The retailer shall be prohibited from selling a non-manufacturer sealed electronic cigarette substance or a manufacturer sealed electronic cigarette product that is labeled as containing:

(a) additives that create the impression that a non-manufacturer sealed electronic cigarette substance or a manufacturer sealed electronic cigarette product has a health benefit;

(b) additives that are associated with energy and vitality;

(c) illegal or controlled substances as identified in Section 58-37-3; and

(d) additives having coloring properties for emissions.

(2) The retailer shall be prohibited from selling an industrial hemp product that is a non-manufacturer sealed electronic cigarette substance or an industrial hemp product that is a manufacturer sealed electronic cigarette product unless it is compliant with Title 4, Chapter 41, Part 1, Industrial Hemp; Section R68-26-5; and Section R68-33-5.

(3) The retailer shall be prohibited from selling an electronic cigarette substance or an electronic cigarette product that has received a Premarket Tobacco Product Application (PMTA) denial from the U.S. Food and Drug Administration (FDA), if:

(a) no appeal of the PMTA denial was filed; or

(b) all appeals have been exhausted and the PMTA denial was affirmed.

#### **R384-415-5. Nicotine Content.**

(1) The retailer shall be prohibited from selling a non-manufacturer sealed electronic cigarette substance or a manufacturer sealed electronic cigarette product to the consumer if the product is not compliant with one of the following:

(a) the nicotine concentration for an electronic cigarette product or substance that is not subject to a PMTA order from the FDA:

(i) for a non-manufacturer sealed electronic cigarette substance is limited to 360 mg nicotine per container, or does not exceed a 24mg/mL concentration of nicotine; or

(ii) for a manufacturer sealed electronic cigarette product is limited to 5% by weight per container ~~and~~ or does not exceed a 59mg/mL concentration of nicotine;

(b) the electronic cigarette product or substance received a PMTA denial from the FDA, but FDA or a court orders or otherwise permits ongoing sales during the pendency of an appeal; or

(c) the electronic cigarette product or substance received a PMTA approval from FDA.

#### **R384-415-6. Packaging.**

(1) The retailer shall ensure that the packaging of a non-manufacturer sealed electronic cigarette substance intended for sale to a consumer is certified as child resistant, and compliant with federal standards and law concerning child nicotine poisoning prevention.

(2) The retailer shall sell non-manufacturer sealed electronic cigarette substances and manufacturer sealed electronic cigarette products in the product's original packaging.

(3) The retailer shall be prohibited from repackaging or dispensing any non-manufacturer sealed electronic cigarette substance or any manufacturer sealed electronic cigarette product for retail sale.

(4) The retailer shall be prohibited from refilling a manufacturer sealed electronic cigarette product that is not intended to be opened by a retailer or a consumer.

(5) The retailer shall ensure that an industrial hemp product that is a non-manufacturer sealed electronic cigarette substance or an industrial hemp product that is a manufacturer sealed electronic cigarette product is compliant with Title 4, Chapter 41, Part 1, Industrial Hemp; and Rule R68-26.

#### **R384-415-7. Product Quality.**

(1) Consistent with 21 U.S.C 387j, no manufacturer or retailer shall sell, offer for sale, or distribute an electronic cigarette, an electronic cigarette product, or an electronic cigarette substance unless the product complies with each of the relevant electronic cigarette product standards established by the U.S. Food and Drug Administration under 21 U.S.C. 387g(3).

(2) No manufacturer or retailer shall sell, offer for sale, or distribute an electronic cigarette, an electronic cigarette product, or an electronic cigarette substance unless the product has received marketing authorization from the U.S. Food and Drug Administration (FDA) under 21 U.S.C. 387j(c)(1)(A)(i), 21 U.S.C. 387j(a)(2)(A)(i), or 21 U.S.C. 387j(a)(2)(A)(ii) and related FDA regulations, policies, or actions.

(3) A manufacturer or retailer will not be in violation of Subsection (2) and may continue to sell, offer for sale, or distribute an electronic cigarette, an electronic cigarette product, or an electronic cigarette substance if:

(a) the manufacturer or retailer only sells, offers for sale, or distributes an electronic cigarette, an electronic cigarette product, or an electronic cigarette substance that is compliant with the requirements set forth in this rule;

## NOTICES OF CHANGES IN PROPOSED RULES

(b) the manufacturer submitted a timely Premarket Tobacco application or Substantial Equivalent application to the FDA by September 9, 2020, verified by being listed on the FDA's website as a deemed new tobacco product with timely application; and

(c) the FDA has not issued a written marketing order and therefore the product's Premarket Tobacco application or Substantial Equivalent application is pending review by the FDA.

(4) This section will take effect on the date that manufacturers are required to secure marketing orders from the FDA to continue marketing their products in the United States.

### **R384-415-8. Record Keeping and Testing.**

(1) The retailer shall provide the non-manufacturer sealed electronic cigarette substance transaction statements or manufacturer sealed electronic cigarette product transaction statements to the department or the local health department within 14 calendar days of a request. The retailer shall ensure that the transaction statement includes manufacturer certifications that:

(a) the labeling requirements are compliant with Section R384-415-3;

(b) the nicotine content of a non-manufacturer sealed electronic cigarette substance is compliant with Subsection R384-415-5(1)(a) and the nicotine content of a manufacturer sealed electronic cigarette product is compliant with Subsection R384-415-5(1)(b);

(c) the packaging requirements are compliant with Section R384-415-6; and

(d) the product quality requirements are compliant with Section R384-415-7.

(2) The retailer shall provide evidence that supports the documents described in Subsection R384-415-8(1) to the department or the local health department within 14 calendar days of a request.

(3) The retailer shall have access to the documents described in Subsections R384-415-8(1) and R384-415-8(2) for a period of two years after the retailer purchases the non-manufacturer sealed electronic cigarette substance or the manufacturer sealed electronic cigarette product.

### **R384-415-9. Enforcement.**

In enforcing or seeking penalties of any violation as set forth in this rule or Section 26B-7-505, the department and local health departments shall comply with the enforcement requirement in Sections 26B-7-514 through 26B-7-520.

**KEY: electronic cigarettes, nicotine, Electronic Cigarette Product and Nicotine Product Regulation Act**

**Date of Last Change: 2023**

**Notice of Continuation: December 8, 2020**

**Authorizing, and Implemented or Interpreted Law: 26B-7-505**

## **End of the Notices of Changes in Proposed Rules Section**

## NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-DAY RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-DAY RULE** including the name of a contact person, justification for filing a **120-DAY RULE**, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **120-DAY RULE** is printed. New text is underlined (example) and text to be deleted is struck out with brackets surrounding the deleted text ([~~example~~]). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (. . . . .) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective when filed with the Office of Administrative Rules, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule. Because of its temporary nature, a **120-DAY RULE** is not codified as part of the *Utah Administrative Code*.

The law does not require a public comment period for **120-DAY RULES**. However, when an agency files a **120-DAY RULE**, it may file a **PROPOSED RULE** at the same time, to make the requirements permanent.

Emergency or **120-DAY RULES** are governed by Section 63G-3-304, and Section R15-4-8.

NOTICE OF EMERGENCY (120-DAY) RULE		
Rule or Section Number:	R704-4	Filing ID: 55432
Effective Date:	05/16/2023	

### Agency Information

<b>1. Department:</b>	Public Safety	
<b>Agency:</b>	Emergency Management	
<b>Room number:</b>	Suite 2200	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S 2700 W	
<b>City, state and zip:</b>	Taylorsville, UT 84129-2128	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Kim Gibb	801-556-8198	kgibb@utah.gov
Janna Wilkinson	385-214-5857	jannawilkinson@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

### General Information

2. Rule or section catchline:
R704-4. Response, Recovery, and Post-disaster Mitigation Grant Funding
3. Purpose of the new rule or reason for the change:
This rule is being filed as a result of the passage of S.B. 33 during the 2023 General Session. The bill became effective on 05/03/2023. This rule is being enacted as an emergency rule to clarify the process by which a governing body may apply for response recovery and post-disaster mitigation grant funding.
4. Summary of the new rule or change:
This rule filing designates the requirements and procedures for a governing body of an affected community to: apply for a disaster response and recovery grant; conduct an official damage assessment; establish standards to determine the categories of and criteria for entities and costs that are eligible for grant funds; establish minimum threshold payment amounts and cost-sharing requirements; establish standards and procedures to ensure that funds distributed in accordance with this part are distributed in a cost effective and equitable manner; are reasonably necessary for disaster response and recovery; are an appropriate and necessary use of public



funds; and ensure that all receipts and invoices are documented.

**5A) The agency finds that regular rulemaking would:**

- ☒ cause an imminent peril to the public health, safety, or welfare;
- ☐ cause an imminent budget reduction because of budget restraints or federal requirements; or
- ☐ place the agency in violation of federal or state law.

**B) Specific reasons and justifications for this finding:**

S.B. 33 (2023) became effective on 05/03/2023. Emergency rulemaking is necessary in order to establish the process by which grant funding may be obtained by a governing body to address flooding that is currently taking place.

**Fiscal Information**

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

**A) State budget:**

The Division of Emergency Management (Division) does not anticipate a cost to the state budget as a result of the enactment of this rule. The Utah Legislature appropriated funding for FY24 in the amount of \$10,000,000 to provide grant funding for disaster recovery and post-disaster mitigation. This rule determines how the funding will be distributed.

**B) Local governments:**

The Division does not anticipate a cost to local governments as a result of the enactment of this rule. The Utah Legislature appropriated funding for FY24 in the amount of \$10,000,000 to provide grant funding for disaster recovery and post-disaster mitigation. This rule determines how the funding will be distributed.

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

The Division does not anticipate a cost to small businesses as a result of the enactment of this rule. The Utah Legislature appropriated funding for FY24 in the amount of \$10,000,000 to provide grant funding for disaster recovery and post-disaster mitigation. This rule determines how the funding will be distributed.

**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**):

The Division does not anticipate a cost to persons other than small businesses, state, or local government entities as a result of the enactment of this rule. The Utah Legislature appropriated funding for FY24 in the amount of \$10,000,000 to provide grant funding for disaster recovery

and post-disaster mitigation. This rule determines how the funding will be distributed.

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

The Division does not anticipate any compliance costs to affected persons as a result of the enactment of this rule. The Utah Legislature appropriated funding for FY24 in the amount of \$10,000,000 to provide grant funding for disaster recovery and post-disaster mitigation. This rule determines how the funding will be distributed.

**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):

The Commissioner of the Department of Public Safety, Jess L. Anderson, has reviewed and approved the fiscal impact this rule may have on businesses.

**Citation Information**

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

Section 53-2a-102	Section 53-2a-1301	Section 53-2a-1302
Section 53-2a-1303	Section 53-2a-1304	Section 53-2a-1305

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Kris Hamlet, Division Director	<b>Date:</b>	05/16/2023
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**R704. Public Safety, Emergency Management.**

**R704-4. Response, Recovery, and Post-disaster Mitigation Grant Funding.**

**R704-4-1. Authority.**

This rule is authorized by Section 53-2a-1305.

**R704-4-2. Purpose.**

The purpose of this rule is to establish requirements, procedures, and standards for administering the Response, Recovery, and Post-disaster Mitigation Restricted Account described in Title 53, Chapter 2a, Part 13.

**R704-4-3. Definitions.**

(1) Terms used in this rule are defined in Sections 53-2a-102 and 53-2a-1301.

(2) Additional terms are defined as follows:

(a) "affected community member support services" means actions taken by a governing body to support their affected community members that are intended to support the affected community member to make their home or business safe, sanitary, and functional, and are not covered by insurance;

(b) "facility" means a building or system, built or manufactured, or an improved and maintained natural feature;

(c) "governing body" means the same as defined in Subsection 53-2a-602(2)(f);

(d) "incident" means a natural disaster event that causes damage of sufficient severity and magnitude to warrant disaster assistance to supplement the efforts and available resources of the state, a local government, or a disaster relief organization in alleviating the damage, loss, hardship, or suffering caused thereby, including:

- (i) earthquake;
- (ii) storm;
- (iii) flood;
- (iv) tornado;
- (v) landslide;
- (vi) mudslide;
- (vii) snowstorm;
- (viii) wildfire; or
- (ix) drought;

(e) "incident period" means the time interval during which the disaster-causing incident occurs as established by the division in consultation with the National Weather Service or other disaster event expertise agency;

(f) "post-disaster mitigation integrated repairs" means disaster mitigation measures directly related to recovery damage repair projects that directly reduce the potential of future damage to the facility that was damaged in the incident; and

(g) "recovery damage repair" means the restoration of disaster-damaged publicly owned infrastructure and facilities.

#### **R704-4-4. Application.**

(1) A governing body of an affected community wishing to apply for disaster response, recovery and post-disaster grant funding shall submit to the division:

- (a) an application in a form approved by the division;
- (b) documentation of an official damage assessment as described in Subsection R704-4-8; and
- (c) documentation of financial records, supporting documents, statistical records, and any other records pertinent to costs associated with response, recovery, and post-disaster mitigation.

(2) Applications shall be submitted to the division's recovery section at <https://recovery-utah-em.hub.arcgis.com/>:

- (a) at least 60 days after the end of the incident period; and
- (b) before 90 days after the end of the incident period.

#### **R704-4-5. Eligibility Review.**

- (1) The Division shall:
  - (a) review applications received for any eligible incident periods for eligibility, completeness, applicability, and feasibility;
  - (b) confirm that the applicant is an eligible governing body of an affected community; and
  - (c) score, rank, and prioritize applications for equitable and cost-effective grant award distribution.

(2) The costs submitted in the application shall:

- (a) be the responsibility of the governing body of the affected community, or an individual or entity as allowed in Subsections 53-2a-1304(1)(a) through (c);
- (b) have resulted from the disaster-causing incident which took place during the incident period or have occurred in anticipation of that incident;
- (c) meet eligible costs for emergency disaster services under Subsection R704-4-9; and

(d) not be eligible for and not have been covered by any other available sources of funding, such as:

- (i) insurance coverage;
- (ii) FEMA public assistance or individual assistance programs;
- (iii) other state funding sources;
- (iv) other relevant federal disaster grant funding; or
- (v) services as provided by voluntary or non-profit disaster organizations.

#### **R704-4-6. Prioritization of Awards for Grant Applications.**

In accordance with Sections 53-2a-1302 and 53-2a-1305, the division shall consider the following criteria in prioritizing and awarding disaster response, recovery, and post-disaster hazard mitigation grant funding:

- (1) the total balance available in the account;
- (2) other sources of funding that might be available to the governing body for the purpose of disaster response, recovery, and post-disaster mitigation;
- (3) the severity or scale of the disaster or emergency that has been declared, including:
  - (a) the severity of the impact on an affected community that submitted a grant application; and
  - (b) the number of affected communities that submit a grant application; and
- (4) the reasonableness, allocability, and allowability of costs submitted with the application.

#### **R704-4-7. Grant Awards.**

(1) Grant funds shall be obligated after applications and corresponding documents are submitted, processed, validated, approved, and appropriately signed by the applicant and the director.

(2) Disbursement of grant proceeds to the grantee shall take place within 10 business days of final approval of the grant application and corresponding documentation.

(3) Grant funds awarded shall be based on a cost match of 75% to the state and 25% to the governing body.

(4) A governing body cost share may be provided as:

- (a) a contribution of cash;
- (b) third-party in-kind services;
- (c) materials; or
- (d) a combination of items listed under Subsections R704-4-7(4)(a) through (c).

#### **R704-4-8. Official Damage Assessment Requirement.**

(1) A governing body shall conduct an official damage assessment as required in Subsection R704-4-4.

(2) Damage assessments shall include:

- (a) a completed Preliminary Damage Assessment Cover Sheet as provided by the division; and
- (b) associated documentation to support the damage and costs identified in the assessment.

#### **R704-4-9. Eligible Costs.**

Costs eligible to be submitted for consideration under the Response, Recovery, and Post-disaster Mitigation Restricted Account grant application include:

- (1) emergency disaster services as defined in Subsection 53-2a-602(2)(d);
- (2) recovery damage repair of:
  - (a) roads and bridges;
  - (b) transportation systems;

## NOTICES OF 120-DAY (EMERGENCY) RULES

(c) utilities;  
(d) water control facilities;  
(e) parks and recreation systems; and  
(f) other relevant facilities;  
(3) post-disaster mitigation integrated repairs; and  
(4) affected community member support services, if the  
grant funds are managed and distributed by the governing body of the  
affected community.  
(a) Grant funding for services is not guaranteed to be  
awarded for each applicant in each disaster.  
(b) Eligible costs for service actions may include:  
(i) relevant costs associated with emergency disaster  
services as defined in Subsection 53-2a-602(2)(d);

(ii) costs for services provided to assist affected  
community members with debris removal from their home or  
property; and  
(iii) costs for services provided to assist affected  
community members with repair or replacement of critical utility  
services.

### **KEY: post-disaster grant funding**

**Date of Last Change: May 16, 2023**

**Authorizing, and Implemented or Interpreted Law: 53-2a-102;**  
**53-2a-1301; 53-2a-1302; 53-2a-1303; 53-2a-1304; 53-2a-1305**

**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](http://adminrules.utah.gov). The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

**REVIEWS** are governed by Section 63G-3-305.

## FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Rule Number:</b>	<b>R30-1</b>	<b>Filing ID: 50059</b>
<b>Effective Date:</b>	<b>05/17/2023</b>	

### Agency Information

<b>1. Department:</b>	Government Operations	
<b>Agency:</b>	Inspector General of Medicaid Services (Office of)	
<b>Room number:</b>	417	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 143103	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-3103	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Gene D. Cottrell	801-599-4372	gcottrell@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

### General Information

<b>2. Rule catchline:</b>
R30-1. Office Procedures
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>

This administrative rule is enacted under Title 63A, Chapter 13, "Office of Inspector General of Medicaid Services" (Office).

This provision authorizes the Office to create rules to establish standards for how the Office is to conduct business and how it will interact with Medicaid contracted entities.

### 4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There have been no written comments received by this Office in the past five years 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:

This rule is necessary because the work of the Office is still conducted in a substantially similar fashion. Therefore, this rule should be continued.

### Agency Authorization Information

<b>Agency head or designee and title:</b>	Gene D. Cottrell, Inspector General	<b>Date:</b>	05/11/2023
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## FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Rule Number:</b>	<b>R30-2</b>	<b>Filing ID: 50061</b>
<b>Effective Date:</b>	<b>05/17/2023</b>	

**Agency Information**

<b>1. Department:</b>	Government Operations	
<b>Agency:</b>	Inspector General of Medicaid Services (Office of)	
<b>Room number:</b>	417	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 143103	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-3103	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Gene D. Cottrell	801-599-4372	gcottrell@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

**General Information**

<b>2. Rule catchline:</b>
R30-2. Adjudicative Procedures
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This administrative rule is enacted under Title 63A, Chapter 13, "Office of Inspector General of Medicaid Services" (Office).  This provision authorizes the Office to create rules to establish standards for how the Office is to conduct business and how it will interact with Medicaid contracted entities.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
There have been no written comments received by this Office in the past five years regarding this rule.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule is necessary because the work of the Office is still conducted in a substantially similar fashion. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Gene D. Cottrell, Inspector General	<b>Date:</b>	05/11/2023
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R30-3</b>	<b>Filing ID: 50063</b>
<b>Effective Date:</b>	<b>05/17/2023</b>	

**Agency Information**

<b>1. Department:</b>	Government Operations	
<b>Agency:</b>	Inspector General of Medicaid Services (Office of)	
<b>Room number:</b>	417	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 143103	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-3103	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Gene D. Cottrell	801-599-4372	gcottrell@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

**General Information**

<b>2. Rule catchline:</b>
R30-3. Declaratory Orders
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This administrative rule is enacted under Title 63A, Chapter 13, "Office of Inspector General of Medicaid Services" (Office).  This provision authorizes the Office to create rules to establish standards for how the Office is to conduct business and how it will interact with Medicaid contracted entities.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
There have been no written comments received by this Office in the past five years regarding this rule.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule is necessary because the work of the Office is still conducted in a substantially similar fashion. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Gene D. Cottrell, Inspector General	<b>Date:</b>	05/11/2023
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R396-100</b>	<b>Filing ID:</b>	<b>53814</b>
<b>Effective Date:</b>	<b>05/22/2023</b>		

**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Population Health	
<b>Building:</b>	Cannon Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 142001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-2001	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Rich Lakin	801-554-9827	rlakin@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule catchline:</b>
R396-100. Immunization Rule for Students
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule implements the immunization requirement of Section 53G-9-3. This rule establishes the minimum immunization requirements for attendance at a public, private, elementary, or secondary schools through grade 12, nursery school or kindergarten, licensed day care center, childcare facility, family home care, or the Head Start program in the state of Utah.
This rule establishes:
1) required doses and frequency of vaccine administration;
2) reporting of statistical data; and
3) time periods for conditional enrollment.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No comments have been received since the last five-year review.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule implements minimum immunization requirements for the safety of students as described in the purpose and authority for schools listed.

It also describes the frequency and vaccines that are required for school attendance along with vaccine exemption processes to attend schools.

In addition, it allows the Department of Health and Human Services to gather statistical data of immunization status of students in case of an outbreak to ensure their safety, which is coordinated with local health departments.

Lastly, it describes conditional enrollment processes to help parents that are behind on required vaccines. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	05/22/2023
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R414-508</b>	<b>Filing ID:</b>	<b>51000</b>
<b>Effective Date:</b>	<b>05/23/2023</b>		

**Agency Information**

Agency Information

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
<b>Please address questions regarding information on this notice to the agency.</b>		

**General Information**

<b>2. Rule catchline:</b>
R414-508. Requirements for Transfer of Bed Licenses
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 26B-1-213 grants the Department of Health and Human Services (Department) the power to adopt, amend, or rescind rules, and Section 26B-3-313 sets forth licensed-bed transfer requirements for nursing care facility programs.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
The Department did not receive any written comments regarding this rule.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
The Department has determined that this rule is necessary because it implements bed transfer requirements in accordance with state law. Therefore, this rule should be continued.
The Department will file an amendment to update citations for recodification and for merger purposes.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	05/22/2023
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R414-519</b>	<b>Filing ID:</b>	<b>51009</b>
<b>Effective Date:</b>	<b>05/22/2023</b>		

**Agency Information**

<b>1. Department:</b>	Health and Human Services
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy
<b>Building:</b>	Cannon Health Building
<b>Street address:</b>	288 N 1460 W
<b>City, state and zip:</b>	Salt Lake City, UT 84116
<b>Mailing address:</b>	PO Box 143102
<b>City, state and zip:</b>	Salt Lake City, UT 84114-3102

**Contact persons:**

<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov

**Please address questions regarding information on this notice to the persons listed above.**

**General Information**

<b>2. Rule catchline:</b>
R414-519. Settings for Home and Community-Based Services
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 26B-1-213 grants the Department of Health and Human Services (Department) the power to adopt, amend, or rescind rules, and Section 26B-3-108 requires the Department to administer the Medicaid program through administrative rules.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
The Department did not receive any written comments regarding this rule.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
The Department has determined that this rule is necessary because it implements requirements that allow an individual to thrive in a home and community-based services settings. Therefore, this rule should be continued.
The Department will file an amendment to update citations and make other technical changes.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	05/22/2023
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R512-76</b>	<b>Filing ID:</b>	<b>54282</b>
<b>Effective Date:</b>	<b>05/22/2023</b>		



**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Child and Family Services	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 West	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Carol Miller	801-557-1772	carolmiller@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule catchline:</b>
R512-76. Expungement of Child and Family Services Allegations
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 80-2-302 authorizes the Division of Child and Family Services (Division) to clarify the scope of services the Division provides to families in Utah.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No comments have been received since the last five-year review of this rule.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule is necessary in order for the Division to clarify the requirements for expungement of Child and Family Services allegations. Therefore, this rule should be continued.
The Department of Health and Human Services anticipates amending this rule to adjust any name changes and citation references following the consolidation and recodification of the Department's statute.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	05/22/2023
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R652-7</b>	<b>Filing ID: 51684</b>
<b>Effective Date:</b>	<b>05/24/2023</b>	

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Forestry, Fire and State Lands	
<b>Room number:</b>	352	
<b>Building:</b>	DNR	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 145703	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-5703	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Brianne Emery	385-239-0791	brianneemery@utah.gov
Jamie Barnes	385-222-1536	jamiebarnes@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule catchline:</b>
R652-7. Public Petitions for Declaratory Orders
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule implements Section 63G-4-503 which authorizes the Division of Forestry, Fire and State Lands (Division) to provide the procedures for submission, review, and disposition of petitions for agency declaratory orders on the applicability of statutes, rules, and orders governing or issued by the agency.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No comments have been received during or since the last five-year review.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>

## FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

This rule authorizes the Division to provide the procedures for submission, review, and disposition of petitions for agency declaratory orders on the applicability of statutes, rules, and orders governing or issued by the agency. Therefore, this rule should be continued.

## Agency Authorization Information

<b>Agency head or designee and title:</b>	Jamie Barnes, Director/State Forester	<b>Date:</b>	05/24/2023
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## FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Rule Number:</b>	<b>R652-110</b>	<b>Filing ID:</b>	<b>51699</b>
<b>Effective Date:</b>	<b>05/24/2023</b>		

## Agency Information

<b>1. Department:</b>	Natural Resources		
<b>Agency:</b>	Forestry, Fire and State Lands		
<b>Room number:</b>	352		
<b>Building:</b>	DNR		
<b>Street address:</b>	1594 W North Temple		
<b>City, state and zip:</b>	Salt Lake City, UT 84116		
<b>Mailing address:</b>	PO BOX 145703		
<b>City, state and zip:</b>	Salt Lake City, UT 84114-5703		
<b>Contact persons:</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Brianne Emery	385-239-0791	brianneemery@utah.gov	

Jamie Barnes	385-222-1536	jamiebarnes@utah.gov
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**Please address questions regarding information on this notice to the persons listed above.**

## General Information

<b>2. Rule catchline:</b>
R652-110. Off-Highway Vehicle Designations
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule implements Section 41-22-10.1 which requires off-highway vehicle use designation.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No comments have been received during or since the last five-year review.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule authorizes the Division of Forestry, Fire and State Lands to designate certain roads, trails, and areas as "open" for various classes of OHVs and identifies the categories of designation. Therefore, this rule should be continued.

## Agency Authorization Information

<b>Agency head or designee and title:</b>	Jamie Barnes, Director/State Forester	<b>Date:</b>	05/24/2023
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**End of the Five-Year Notices of Review and Statements of Continuation Section**

## NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a **NOTICE OF FIVE-YEAR REVIEW EXTENSION (EXTENSION)** with the Office of Administrative Rules. The **EXTENSION** permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed **EXTENSIONS** for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date.

**EXTENSIONS** are governed by Subsection 63G-3-305(6).

NOTICE OF FIVE-YEAR REVIEW EXTENSION		
Rule Number:	R68-16	Filing ID: 50145
New Deadline Date:	09/20/2023	

### Agency Information

<b>1. Department:</b>	Agriculture and Food	
<b>Agency:</b>	Plant Industry	
<b>Building:</b>	TSOB South Bldg, Floor 2	
<b>Street address:</b>	4315 S 2700 W	
<b>City, state and zip:</b>	Taylorsville, UT 84129-2128	
<b>Mailing address:</b>	PO Box 146500	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6500	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amber Brown	385-245-5222	ambermbrown@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

### General Information

2. Rule catchline:
R68-16. Quarantine Pertaining to Pine Shoot Beetle, <i>Tomicus piniperda</i>
3. Reason for requesting the extension:
This rule is no longer needed. The Division of Plant Industry is requesting an extension to allow the Department of Agriculture and Food to repeal this rule before it expires.

### Agency Authorization Information

Agency head or designee and title:	Craig W Butters, Commissioner	Date:	05/19/2023
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### NOTICE OF FIVE-YEAR REVIEW EXTENSION

Rule Number:	R708-49	Filing ID: 51893
New Deadline Date:	10/11/2023	

### Agency Information

<b>1. Department:</b>	Public Safety	
<b>Agency:</b>	Driver License	
<b>Room number:</b>	Suite 2600	
<b>Street address:</b>	4315 S 2700 W	
<b>City, state and zip:</b>	Taylorsville, UT 84129	
<b>Mailing address:</b>	PO Box 144501	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4501	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Kim Gibb	801-556-8198	kgibb@utah.gov
Tara Zamora	801-964-4483	tarazamora@utah.gov
Britani Flores	801-884-8313	bflores@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

## NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

### General Information

**2. Rule catchline:**

R708-49. Temporary Identification Card

**3. Reason for requesting the extension:**

The Division of Driver License is considering the possibility of repealing this rule and requires more time to repeal this rule before it expires.

### Agency Authorization Information

**Agency head  
or designee  
and title:**

Christopher  
Caras, Director

**Date:**

05/17/2023

**End of the Notices of Five-Year Review Extensions Section**

## NOTICES OF RULE EFFECTIVE DATES

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State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

**NOTICES OF EFFECTIVE DATE** are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

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### Agriculture and Food

#### Animal Industry

No. 55281 (Amendment) R58-2: Diseases, Inspections and Quarantines

Published: 04/01/2023

Effective: 05/23/2023

No. 55284 (Amendment) R58-4: Use of Animal Drugs and Biologicals

Published: 04/01/2023

Effective: 05/23/2023

No. 55285 (Amendment) R58-6: Poultry and Captive-Raised Gamebirds

Published: 04/01/2023

Effective: 05/23/2023

No. 55283 (Amendment) R58-14: Holding Live Raccoons Or Coyotes in Captivity

Published: 04/01/2023

Effective: 05/23/2023

### Crime Victim Reparations

#### Administration

No. 55308 (Amendment) R270-1-23: Sexual Assault Forensic Examinations

Published: 04/15/2023

Effective: 05/22/2023

No. 55311 (Amendment) R270-1-25: Victim Services Awards

Published: 04/15/2023

Effective: 05/23/2023

### Education

#### Administration

No. 55288 (Amendment) R277-104: ADA Complaint Procedure

Published: 04/15/2023

Effective: 05/23/2023

No. 55328 (Amendment) R277-301: Educator Licensing

Published: 05/01/2023

Effective: 06/07/2023

No. 55329 (Amendment) R277-312: Online Educator Licensure

Published: 05/01/2023

Effective: 06/07/2023

No. 55289 (New Rule) R277-329: Local School District Board Policies for Evaluation of Classified Employees

Published: 04/15/2023

Effective: 05/23/2023

No. 55294 (Amendment) R277-419: Pupil Accounting

Published: 04/15/2023

Effective: 07/01/2023

No. 55330 (Repeal) R277-492: Math and Science Opportunities for Students and Teachers (MOST) Program

Published: 05/01/2023

Effective: 06/07/2023

No. 55290 (Repeal) R277-532: Local Board Policies for Evaluation of Non-Licensed Public Education Employees (Classified Employees)

Published: 04/15/2023

Effective: 05/23/2023

No. 55248 (Amendment) R277-552: Charter School Timelines and Approval Processes

Published: 03/01/2023

Effective: 05/23/2023

No. 55248 (Change in Proposed Rule) R277-552: Charter School Timelines and Approval Processes

Published: 04/15/2023

Effective: 05/23/2023

## NOTICES OF RULE EFFECTIVE DATES

No. 55291 (Amendment) R277-751: Special Education  
Extended School Year (ESY)  
Published: 04/15/2023  
Effective: 05/23/2023

No. 55332 (Amendment) R277-800: Utah Schools for the  
Deaf and the Blind  
Published: 05/01/2023  
Effective: 06/07/2023

No. 55333 (Amendment) R277-926: Certification of  
Residential Treatment Center Special Education Program  
Published: 05/01/2023  
Effective: 06/07/2023

No. 55292 (Amendment) R277-927: Teacher and Student  
Success Act (TSSA) Program  
Published: 04/15/2023  
Effective: 05/23/2023

### Environmental Quality

#### Drinking Water

No. 55217 (Amendment) R309-700: Financial Assistance:  
State Drinking Water State Revolving Fund (SRF) Loan  
Program  
Published: 03/01/2023  
Effective: 05/22/2023

No. 55218 (Amendment) R309-705: Financial Assistance:  
Federal Drinking Water State Revolving Fund (SRF) Loan  
Program  
Published: 03/01/2023  
Effective: 05/22/2023

No. 55219 (Repeal and Reenact) R309-800: Capacity  
Development Program  
Published: 03/01/2023  
Effective: 05/22/2023

### Health and Human Services

#### Health Care Financing, Coverage and Reimbursement Policy

No. 55340 (Amendment) R414-9: Federally Qualified  
Health Centers and Rural Health Clinics  
Published: 05/01/2023  
Effective: 06/12/2023

#### Health Care Facility Licensing

No. 55310 (Amendment) R432-31: Life with Dignity Order  
Published: 05/01/2023  
Effective: 06/12/2023

#### Human Services Program Licensing

No. 55307 (Amendment) R501-12: Foster Care Services  
Published: 04/15/2023  
Effective: 05/31/2023

### Insurance

#### Administration

No. 55334 (Repeal and Reenact) R590-67: Proxy  
Solicitations and Consent and Authorization of Stockholders  
of Domestic Stock Insurers  
Published: 05/01/2023  
Effective: 06/09/2023

No. 55335 (Repeal and Reenact) R590-68: Insider Trading  
of Equity Securities of Domestic Stock Insurance Companies  
Published: 05/01/2023  
Effective: 06/09/2023

No. 55336 (Amendment) R590-216: Standards for  
Safeguarding Customer Information  
Published: 05/01/2023  
Effective: 06/09/2023

No. 55341 (Repeal and Reenact) R590-220: Submission of  
Accident and Health Insurance Filings  
Published: 05/01/2023  
Effective: 06/09/2023

No. 55337 (Amendment) R590-264: Property and Casualty  
Actuarial Opinion Rule  
Published: 05/01/2023  
Effective: 06/09/2023

No. 55338 (Amendment) R590-266: Utah Essential Health  
Benefits Package  
Published: 05/01/2023  
Effective: 06/09/2023

No. 55256 (Amendment) R590-283-6: Reporting  
Published: 03/15/2023  
Effective: 06/09/2023

No. 55256 (Change in Proposed Rule) R590-283-6:  
Reporting  
Published: 05/01/2023  
Effective: 06/09/2023

### Public Safety

#### Driver License

No. 55317 (New Rule) R708-55: Foreign Driver License  
Reciprocity  
Published: 05/01/2023  
Effective: 06/07/2023

#### Highway Patrol

No. 55305 (Amendment) R714-158: Vehicle Safety  
Inspection Program Requirements  
Published: 04/15/2023  
Effective: 05/23/2023

No. 55306 (Amendment) R714-570: Mental Health  
Resources or First Responders Grant Funding  
Published: 04/15/2023  
Effective: 05/23/2023

Workforce Services

Housing and Community Development

No. 55322 (Amendment) R990-200-3: Definitions

Published: 05/01/2023

Effective: 06/07/2023

**End of the Notices of Rule Effective Dates Section**



