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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EDITOR'S NOTES

Virtual Utah Department of Health and Human Services Public Hearing via Zoom Regarding Filing on Rule R384-415, ID 55390

The hearing on the proposed rule amendment to Rule R384-415, Electronic Cigarette Substance Standards, is scheduled for Monday, July 17, 2023, at 10:00 AM to 11:30 AM.

This public hearing will be held virtually via this Zoom Link:
https://utah-gov.zoom.us/j/81726822728?pwd=RHBHZmtkRUdlRHNnY3hJWG4wRXJEZz09
Passcode: r384-Jul17
Or join by phone: US: +1 669 900 6833 or +1 346 248 7799 / Webinar ID: 817 2682 2728 / Passcode: 9701631242

AGENDA

1. Welcome by Braden Ainsworth, Program Manager and Hearing Officer
2. Overview to Proposed Rule Amendment to R384-415, Electronic Cigarette Substance Standards, by McKenna Christensen, Policy Analyst
3. Public Comments
4. Conclusion

Please send an email to: tobaccorulescomments@utah.gov if you would like to sign up to provide public comments during the virtual public hearing on Monday, July 17, 2023, or if you have any questions.

There will also be an option to sign up for public comment while at the hearing.

Overview to Proposed Rule Amendment to R384-415 – Electronic Cigarette Substance Standards

With the passage of H.B. 23 from the 2020 General Session, the Utah Department of Health (UDOH) was required to establish labeling, nicotine content, packaging, and product quality standards for manufacturer sealed electronic cigarette substances, otherwise known as a sealed electronic cigarette pod or cartridge.

UDOH had multiple previous rule filings for this rule, with the final being DAR filing No. 53559 which was made effective on September 9, 2021.

The Utah Department of Health and Human Services (DHHS) filed a proposed amendment to Rule R384-415, under ID 55390, which was published in the Utah State Bulletin on May 15, 2023, starting on page 89.

The Utah DHHS also filed a Change In Proposed Rule (CPR) to Rule R384-415, under ID 55390, which was published in the Utah State Bulletin on June 15, 2023, starting on page 90. The earliest effective date for this CPR may be July 25, 2023.

If the proposed rule amendment and CPR go into effect as written, the following requirements would apply:

1. A retailer may sell electronic cigarette substances and electronic cigarette products that have received FDA Premarket Tobacco Product Application (PMTA) approval regardless of nicotine concentration.
2. A tobacco retailer would be prohibited from selling an electronic cigarette substance or an electronic cigarette product that has received a PMTA denial if no appeal was filed or the denial was affirmed after an appeal, but would be allowed to sell it during an appeal if permitted by FDA or a court order.
3. The sale of manufacturer sealed electronic cigarette products not subject to a PMTA denial order would be limited to 5% by weight per container or do not exceed a 59mg/mL concentration of nicotine.

4. The sale of non-manufacturer sealed electronic cigarette substances not subject to a PMTA denial order would not be changed by the proposed amendment, and would remain limited to 360 mg nicotine per container or do not exceed a 24mg/mL concentration of nicotine.

5. There is one change in the 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.

6. The proposed rule amendment also includes nonsubstantive changes that reflect recodification of statutes from Utah Code Title 26 into Title 26B and nonsubstantive grammatical changes.

A copy of the proposed rule amendment to Rule R384-415 can be found beginning on page 90 of the Utah Office of Administrative Rules' Utah State Bulletin, published on June 15, 2023, found at:
https://rules.utah.gov/wp-content/uploads/b20230615.pdf.

The final date for accepting written comments is close of business on Monday, July 17, 2023. Please send written comments to: tobaccorulescomments@utah.gov or to the Tobacco Prevention and Control Program, Utah Department of Health and Human Services, PO Box 142106, Salt Lake City, UT 84114-2106.

End of the Editor's Notes Section

NOTICES OF
PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between June 16, 2023, 12:00 a.m., and June 30, 2023, 11:59 p.m. are included in this, the July 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 August 14, 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 November 13, 2023, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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

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

The Proposed Rules Begin on the Following Page

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R25-7**	**Filing ID: 55521**

Agency Information

1. Department:	Government Operations
Agency:	Finance
Room number:	3rd Floor
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129-2128
Mailing address:	PO Box 141031
City, state and zip:	Salt Lake City, UT 84114-1031

Contact persons:

Name:	**Phone:**	**Email:**
Ally Branch	801-597-3523	abranch@utah.gov
Van Christensen	801-808-0698	vhchristensen@utah.gov

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

General Information

2. Rule or section catchline:

R25-7. Travel-Related Reimbursements for State Travelers

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

The agency is changing this rule in order to change reimbursements rates and travel policy.

4. Summary of the new rule or change:

This rule will change per diem rates to the federal travel reimbursement rates which are: rates for the contiguous US established by the US General Services Administration; rates for Alaska, Hawaii, US Territories, and possessions established by the US Department of Defense; and rates for foreign travel established by the US Department of State.

The mileage reimbursement rate will also change for state agencies to a calculated rate rounded to the nearest cent based on the average of the federal travel reimbursement rate if use of a privately-owned automobile is authorized or if no government-furnished automobile is available and the federal travel reimbursement rate if a government-furnished automobile is available.

This rule change also prescribes a new system for state agencies that will be implemented for travel reimbursements and compliance with the rates.

Fiscal Information

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

A) State budget:

The fiscal impact of this proposed rule change on the state's budget is undeterminable since the amount of expected travel is unknown. However, there will be some increase in travel costs/reimbursements since the federal travel reimbursements rates for meals and lodging are higher than the rates previously used.

There also will be some decrease in the amounts for mileage reimbursements for those agencies that previously reimbursed travelers at 62 cents since the calculated rate will be 27% lower.

B) Local governments:

The fiscal impact of this proposed rule change on local governments is undeterminable since the amount of expected travel is unknown.

Also, local governments are allowed to prescribe rates that are more stringent than those established in this rule.

Additionally, they may reimburse mileage at the federal reimbursement rates rather than the proposed calculated rate that state agencies will use.

It is impossible to know what the local governments will adopt for travel.

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

This proposed rule change is expected to have little to no fiscal impact on small businesses because small businesses do not follow this rule.

The only effect it may have on a small business is if a state agency or political subdivision were to reimburse a small business for related state business travel.

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

This proposed rule change is expected to have little to no fiscal impact on non-small businesses because non-small businesses do not follow this rule.

The only effect it may have on a non-small business is if a state agency or political subdivision were to reimburse a non-small business for related State business travel.

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 change is expected to have little to no effect on other persons. Board members' travel costs may increase with the higher federal reimbursement rates for food and lodging; however, their amounts reimbursed for mileage will decrease by 27%.

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

The cost of compliance for state agencies will be affected by the cost of the state's travel system as its costs will be allocated to users through expense report rates. The rates will be monitored and adjusted as necessary.

There will be no compliance costs for political subdivisions, small businesses, non-small businesses, or other 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
Total Fiscal Cost	**$0**	**$0**	**$0**
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
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

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

The Deputy Director of the Department of Government Operations, Marilee Richins, 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 63A-3-107 | Section 63A-3-106

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:	08/14/2023

9. This rule change MAY become effective on:	09/01/2023

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:	Van Christensen, Director	**Date:**	06/29/2023

R25. Government Operations, Finance.
R25-7. Travel-Related Reimbursements for State Travelers.
R25-7-1. Purpose.

The purpose of this rule is to establish procedures to pay travel-related Reimbursements to Travelers of an Agency or a Political Subdivision that is subject to this rule.

R25-7-2. Authority and Exemptions.

This rule is established pursuant to:

(1) Section 63A-3-107, which authorizes the Division of Finance to make rules governing in-state and out-of-state travel expenses; and

(2) Section 63A-3-106, which authorizes the Division of Finance to make rules governing meeting per diem and travel expenses for board members attending official meetings.

(3) ESS to Concur system migration:

(a) Sections R25-7-4 through R25-7-11 of this rule govern Agencies that are still using the ESS system to process travel reimbursements and have not yet fully transitioned to using the Concur system.

(b) Sections R25-7-11 through R25-7-18 of this rule govern Agencies that are using only the Concur system to process travel reimbursements.

R25-7-3. Definitions.

(1) "Agency" means any department, division, board, bureau, office, or other administrative subunit of state government. This definition includes the executive, legislative, and judicial branches.

(2) "Board" means a board, commission, council, committee, task force, or similar body established to perform a governmental function.

(3) "Department" means all executive departments of state government.

(4) "Executive Director" means a department executive director, department commissioner, chief of staff, or equivalent of a chief executive officer for political subdivision.

(5) "Federal Travel Reimbursement Rates" means the reimbursement rates established for travel by the following agencies:

(a) Rates for the contiguous United States are established by the U.S. General Services Administration as set forth in 41 C.F.R. 301-11.6, which is incorporated herein by reference.

(b) Rates for Alaska, Hawaii, U.S. Territories, and Possessions are established by the Department of Defense as set forth in 41 C.F.R. 301-11.6, which is incorporated herein by reference.

(c) Rates for foreign travel are established by the Department of State as set forth in 41 C.F.R. 301-11.6, which is incorporated herein by reference.

[~~(5)~~](6) "Fleet Vehicle" means a vehicle owned or leased by an agency or political subdivision. This also includes vehicles rented for use as motor pool vehicles by an agency or political subdivision.

[~~(6)~~](7) "Home Base" means the location from which the traveler leaves to begin travel and the location to which the traveler returns to end travel. In determining the home base of a traveler, an agency should consider at least the following non-exclusive factors:

(a) If the traveler is leaving on travel directly from home, or if there a valid business reason for the traveler to go to a designated work location before leaving for the travel destination, the home base should be the last location the traveler was in, home or designated work location, before leaving on travel.

(b) If the traveler is going directly home after the trip, or if there a valid business reason for them to first go to a designated work location before the traveler returns home, the ending home base for travel is the first location the employee goes to when returning from travel.

(8) "Hotel" means an establishment that provides lodging for travelers.

[~~(7)~~](9) "Per Diem" means an allowance paid daily.

[~~(8)~~](10) "Political Subdivision" means a county, city, town, school district, local district, special service district, or any entity, other than an agency, subject to this rule by statute.

[~~(9)~~](11) "Rate" means an amount of money.

[~~(10)~~](12) "Reimbursement" means money paid to compensate a travel for money spent.

(13) "Sufficient Documentation" means the documents required to identify the payee, the amount paid, proof of payment, the date incurred, and a description of the item purchased, or service received that shows the amount was for a business purpose. Sufficient documentation includes the following official evidence of transaction:

(a) Itemized receipts

(b) Invoices

(c) Canceled checks or other documents reflecting proof of payment/electronic funds transferred

(d) Cash register tape receipts

(e) Account statements

(f) Credit card receipts and statements

A combination of supporting documents may be needed to substantiate all elements of the expense.

[~~(11)~~](14) "Traveler" means any person who is traveling on business for an agency or political subdivision. This definition includes employees, board members, elected officials, vendors, volunteers, and grant recipients or award beneficiaries.

R25-7-4. Eligible Expenses.

(1) Reimbursements are intended to cover any travel-related normal areas of expenses that are ordinary and reasonable under the circumstances.

(2) Requests for reimbursement must be accompanied by original itemized receipts for any expenses except those for which flat allowance amounts are established.

(3) When an original itemized receipt is not available, agency or political subdivision management may use discretion in determining the appropriate amount of alternative documentation before reimbursement of expenses.

(4) Alcoholic Beverages are not reimbursable.

R25-7-5. Approvals.

(1) For insurance purposes, state business travel, whether reimbursed or not, must have prior approval by an appropriate authority. This also includes non-state employees where the agency or political subdivision is paying for the travel expenses.

(2) Out-of-state travel must be approved by the [~~e~~]Executive [~~d~~]Director or designee. The approval of in-state travel reimbursement forms may be considered as documentation of prior approval for in-state travel. Prior approval for out-of-state travel should be documented on form FI5 - "Request for Out-of-State Travel Authorization", in the state's ESS travel system, or in another system with equivalent controls and calculations.

(3) Exceptions to the prior approval for out-of-state travel must be justified in the comments section of form FI5 "Request for Out-of-State Travel Authorization", in the state's ESS travel system or in another system with equivalent controls and calculations[~~,~~] and must be approved by the [~~e~~]Executive [~~d~~]Director or the designee.

(4) The [~~e~~]Executive [~~d~~]Director or designee must approve any travel to out-of-state functions where more than two travelers from the same department are attending the same function at the same time.

R25-7-6. Reimbursement for Meals.

(1) Travelers who travel on business may be eligible for a meal reimbursement.

(2) The reimbursement will include tax, tips, and other expenses associated with the meal.

(a) The daily travel meal allowance for in-state travel is $54 and is computed according to the rates listed in Table 1.

TABLE 1
In-State Travel Meal Allowances

Meals	Rate
Breakfast	$13.00
Lunch	$15.00
Dinner	$26.00

Total	$54.00

(b) The daily travel meal allowance for out-of-state travel is $54 and is computed according to the rates listed in the following table.

TABLE 2 Out-of-State Travel Meal Allowances	
Meals	Rates
Breakfast	$13.00
Lunch	$15.00
Dinner	$26.00
Total	$54.00

(3) Tier I premium locations in this subsection are Anchorage, Alaska; Chicago, Illinois; each location in Hawaii; New York City, New York; San Francisco, California; and Seattle, Washington. Tier II premium locations in this subsection are Atlanta, Georgia; Baltimore, Maryland; Boston, Massachusetts; Dallas, Texas; Los Angeles, California; San Diego, California; and Washington, DC.

(a) When traveling to a Tier I premium location, the traveler may choose to accept the per diem rate for out-of-state travel, as shown in Table 2, or to be reimbursed at the actual meal cost, with original receipts, up to $71 a day.

(b) When traveling to a Tier II premium location, the traveler may choose to accept the per diem rate for out-of-state travel, as shown in Table 2, or to be reimbursed at the actual meal cost, with original receipts, up to $61 per day.

(c) Subject to Subsections R25-7-6(3)(a) and 6(b), the traveler will qualify for premium rates on the day the travel begins and the day the travel ends only if the trip is of sufficient duration to qualify for meals on that day.

(d) Complimentary meals with lodging accommodations and meals included in event registration costs are deducted from the premium location allowance as follows:

(i) Tier I Location

(a) If breakfast is provided deduct $18, leaving a premium allowance for lunch and dinner of actual up to $53.

(b) If lunch is provided deduct $19, leaving a premium allowance for breakfast and dinner of actual up to $52.

(c) If dinner is provided deduct $34, leaving a premium allowance for breakfast and lunch of actual up to $37.

(ii) Tier II Location

(a) If breakfast is provided deduct $16, leaving a premium allowance for lunch and dinner of actual up to $45.

(b) If lunch is provided deduct $17, leaving a premium allowance for breakfast and dinner of actual up to $44.

(c) If dinner is provided deduct $28, leaving a premium allowance for breakfast and lunch of actual up to $33.

(d) The traveler must use the same method of reimbursement for an entire day.

(e) Actual meal cost includes tips.

(4) When traveling in foreign countries, the traveler may choose to accept the per diem rate for out-of-state travel, as shown in Table 2, or to be reimbursed the actual meal cost, with original receipts, not to exceed the federal reimbursement rate for the location as of the date of travel.

(a) The traveler may use both reimbursement methods during a trip; however, they must use the same method of reimbursement for an entire day.

(b) Actual meal cost includes tips.

(5) The meal reimbursement calculation consists of three parts:

(a) The day the travel begins. The traveler's entitlement is determined by the time of day the traveler leaves their home base, as illustrated in Table 3.

TABLE 3 The Day Travel Begins			
1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
12:01 AM -	6:01 AM -	12:01 PM -	6:01 PM -
6:00 AM	12:00 PM	6:00 PM	12:00 AM
*B,L,D	*L,D	*D	*no meals
In-State			
$54.00	$41.00	$26.00	$0
Out-of-State			
$54.00	$41.00	$26.00	$0
*B = Breakfast, L = Lunch, D = Dinner			

(b) The days at the location.

(i) Complimentary meals and meals included in a registration cost are deducted from the total daily meal allowance. However, a continental breakfast will not reduce the meal allowance. Please Note: For breakfast, if a hot food item is offered, it is considered a complimentary meal, no matter how it is categorized by the facility. The meal is considered a "continental breakfast" if no hot food items are offered.

(ii) Meals provided on airlines will not reduce the meal allowance.

(c) The day the travel ends. The meal reimbursement the traveler is entitled to is determined by the time of day the traveler returns to their home base, as illustrated in Table 4.

TABLE[~~able~~] 4 The Day Travel Ends			
1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
12:01 AM -	6:01 AM -	12:01 PM -	6:01 PM -
6:00 AM	12:00 PM	6:00 PM	12:00 PM
*no meals	*B	*B, L	*B, L, D
In-State			
$0	$13.00	$28.00	$54.00
Out-of-State			
$0	$13.00	$28.00	$54.00
*B = Breakfast	L = Lunch	D = Dinner	

(6) A traveler may be authorized by the [~~e~~]Executive [~~d~~]Director or designee to receive a taxable meal allowance on an officially approved trip when the traveler's farthest destination is at least 100 miles one way from their home base and the traveler does not stay overnight.

(a) Breakfast is paid when the traveler leaves their home base before 6 a.m.

(b) Lunch is paid when the traveler leaves their home base before 10 a.m. and returns after 2 p.m.

(c) Dinner is paid when the traveler leaves their home base and returns at or after 6 p.m.

(d) The allowance is not considered an absolute right of the traveler and is authorized at the discretion of the [~~e~~]Executive [~~d~~]Director or designee.

R25-7-7. Meals for Statutory Non-Salaried State Boards.

(1) When a board meets and conducts business activities during mealtime, the cost of meals may be charged as public expense.

(2) Where employees or other advisors or consultants must, of necessity, attend such a meeting to permit the board to carry on its business, the meals of such employees, advisors, or consultants may also be paid. In determining whether [~~or not~~]the presence of such employees, advisors, or consultants is necessary, the board is requested to restrict the attendance of such employees, advisors, or consultants to those absolutely necessary at such mealtime meetings.

R25-7-8. Reimbursement for Lodging.

A traveler who travels on business may be eligible for a lodging reimbursement.

(1) For stays at a conference hotel, the traveler will be reimbursed the actual cost~~.~~ plus tax and any mandatory fees charged by the hotel for both in-state and out-of-state travel. The traveler must include the conference registration brochure with the travel reimbursement request, form FI 51A, FI 51B, on ESS travel, or equivalent form or system.

(2) For in-state lodging at a non-conference hotel, they will be reimbursed the actual cost up to $75 per night for single occupancy plus tax and any mandatory fees charged by the hotel except as noted in Table 5.

TABLE[~~able~~] 5 Cities with Differing Rates	
Note: The rates described below indicate the nightly single occupancy room rates. Any applicable taxes and mandatory fees are in addition to the rates below.	
City	Rate
Ballard	$100.00
Beaver	$95.00
Blanding	$90.00
Bluff	$100
Brigham City	$90.00
Bryce Canyon City	$90.00
Cedar City	$80.00
Duchesne	$100.00
Ephraim	$80.00
Escalante	$85.00
Fillmore	$85.00
Green River	$110.00
Heber	$85.00
Kanab	$95.00
Layton	$90.00
La Verkin	$85.00
Logan	$95.00
Mexican Hat	$90.00
Moab	$150.00
Monticello	$100.00
Nephi	$95.00
Ogden	$95.00
Park City/Midway	$110.00
Payson	$85.00
Price	$95.00
Provo/Orem/Lehi/American Fork/Springville	$85.00
Roosevelt	$90.00
Salt Lake City Metropolitan Area (Draper to Farmington), Tooele	$100.00
Springdale	$85.00
St. George	$90.00
Torrey	$95.00
Tremonton	$90.00
Vernal	$95.00
Washington/Hurricane	$95.00
Other Utah Cities	$75.00

(3) Travelers traveling less than 50 miles from their home base are not entitled to lodging reimbursement. Miles are calculated from the traveler's home base. An [~~e~~]Executive [~~d~~]Director may use discretion to authorize reimbursement for lodging if the agency or political subdivision determines lodging is reasonable and in the best interest of the state. For example, if the traveler is required to work at the travel destination after normal working hours or early the next day, or when weather or other safety issues exist, lodging may be appropriate.

(4) When an agency or political subdivision pays for a person from out-of-state to travel to Utah, the in-state lodging per diem rates will apply.

(5) For out-of-state travel stays at a non-conference hotel, the traveler will be reimbursed the actual cost per night plus tax and any mandatory fees charged by the hotel, not to exceed the federal lodging rate for the location. For agency travelers, these reservations must be made through the [~~s~~]State [~~t~~]Travel [~~o~~]Office.

(6) For agency travelers, the state will reimburse the actual cost per night plus tax and any mandatory fees charged by the hotel for in-state or out-of-state travel stays when reservations are made through the [~~s~~]State [~~t~~]Travel [~~o~~]Office.

(a) If lodging is not available at the allowable per diem rate in the area the traveler needs to stay, the [~~s~~]State [~~t~~]Travel [~~o~~]Office will book a hotel with the best available rate. In this circumstance, the traveler will be reimbursed at the actual rate booked.

(b) If a traveler chooses to stay at a hotel that costs more than the allowable per diem rate, the traveler will only be reimbursed for the allowable per diem rate plus tax and any mandatory fees charged by the hotel.

(7) Lodging is reimbursed at the rates listed in Table 5 for single occupancy only. For double traveler occupancy, add $20, for triple traveler occupancy, add $40, for quadruple occupancy, add $60.

(8) Exceptions will be allowed for unusual circumstances when approved in writing by the travelers [~~e~~]Executive [~~d~~]Director or designee before to the trip.

(a) For out-of-state travel, the approval may be on the form FI 5, in the state's ESS travel system, or in another system with equivalent controls and calculations.

(b) Attach the written approval to the travel reimbursement request, form FI 51B, FI 51D, in ESS travel, or in another equivalent form or system.

(9) A proper receipt for lodging accommodations must accompany each request for reimbursement.

(a) A proper receipt is a copy of the registration form generally used by a motel or hotel which includes the following information: name of motel or hotel, street address, town and state, telephone number, receipt date, names of occupants, dates of occupancy, amount and date paid, number in the party, and single, double, triple, or quadruple occupancy.

(10) When lodging is required, a traveler should stay at the lodging facility nearest to the ultimate destination point of travel where state lodging per diem rates are accepted to minimize transportation costs.

(11) A traveler may also elect to stay with friends or relatives or use their personal campers or trailer homes instead of staying in a hotel. With proof of staying overnight away from home on approved business, they will be reimbursed the following:

(a) $25 per night with no receipts required; or

(b) Actual cost up to $40 per night with a signed receipt from a facility such as a campground or trailer park, not from a private residence.

(12) A traveler on assignment away from the home base for longer than 90 days will be reimbursed as follows:

(a) First 30 days - follow regular rules for lodging and meals. Lodging receipt is required.

(b) After 30 days - $46 a day for lodging and meals. No receipt is required.

R25-7-9. Reimbursement for Incidentals.

Travelers who travel on business may be eligible for a reimbursement for incidental expenses.

(1) A traveler will be reimbursed for actual out-of-pocket costs for incidental items such as baggage tips, maid service, and bellman. Gratuities or tips for various services such as assistance with baggage, maid service, and bellman, may be reimbursed up to a combined maximum of $5 a day. Include an original receipt for each individual incidental item above $19.99.

(2) A traveler will be reimbursed for incidental ground transportation and parking expenses.

(a) A traveler shall document all official business use of taxi, bus, parking, and other ground transportation including dates, destinations, parking locations, receipts, and amounts.

(b) Personal use of such transportation to a restaurant is not reimbursable.

(c) The maximum that airport parking will be reimbursed is the economy lot parking rate at the airport the traveler is flying out of. A receipt is required for amounts of $20 or more.

(d) Gratuities and tips for ground transportation will be reimbursed up to the greater of $5 or 18% for each ride. Gratuities and tips must be shown on an original receipt.

(3) For an agency, a conference registration should be paid in advance by check or with a purchasing card.

(a) A copy of the approved FI 5 form must be included with the payment voucher or purchase card log for out-of-state registrations.

(b) For an agency, if a traveler must pay the registration upon arrival, and does not have a purchase card or personal credit card, the agency is expected to process a payment document and have the traveler take the state warrant to the event.

(4) A demonstrable expense for a business call will be reimbursed at the actual cost.

(a) The traveler shall list the amount of these calls separately on the travel reimbursement request, form FI 51A, FI 51B, or in ESS travel or equivalent form or system.

(b) The traveler must provide an original lodging receipt or original personal phone bill showing the phone number called and the dollar amount for business telephone calls and personal telephone calls.

(5) An allowance for personal telephone calls made while out of town on business overnight may be based on the number of nights away from home. The traveler must provide an original lodging receipt or original personal phone bill showing the phone number called and the dollar amount for personal telephone calls. Reimbursement must be calculated as follows:

(a) four nights or less, actual amount up to $2.50 per night;

(b) five to eleven nights, actual amount up to $20;

(c) twelve nights to 30 nights, actual amount up to $30; and

(d) more than 30 days, start over.

(6) Laundry expenses up to $18 per week will be allowed for trips longer than six consecutive nights, beginning after the sixth night. For use of coin-operated laundry facilities, the traveler must provide a list of dates, locations, and amounts.

(7) An amount of $5 a day will be allowed for travelers away more than six consecutive nights beginning after the sixth night.

(a) This amount covers miscellaneous incidentals not covered in this rule.

(b) This allowance is not available for travelers going to conferences.

(8) An agency or political subdivision may provide for a traveler to return home over a weekend when the business portion of a trip extends longer than ten nights. Reimbursements may be given for costs allowed by these policies.

R25-7-10. Reimbursement for Transportation.

A traveler who travels on business may be eligible for a transportation reimbursement.

(1) Air transportation is limited to Air Coach or Excursion class. Priority seating charges will not be reimbursed unless preapproved by the [~~e~~]Executive [~~d~~]Director or designee.

(a) For agency travelers, all reservations should be made through the [~~s~~]State [~~t~~]Travel [~~o~~]Office for the least expensive air fare available when the reservations are made.

(b) Only one change fee per trip will be reimbursed.

(c) The explanation for the change and any other exception to this rule must be given and approved by the [~~e~~]Executive [~~d~~]Director or designee.

(2) A traveler may be reimbursed for mileage to and from the airport and long-term parking or airport parking.

(a) The maximum reimbursement for parking, whether a traveler parks at the airport or away from the airport, is the long-term parking rate at the airport they are flying out of.

(b) The parking receipt must be included with the Travel Reimbursement Request, form FI 51A, FI 51B, in ESS Travel or equivalent form or system for amounts of $20 or more.

(c) A traveler may be reimbursed, up to the maximum reimbursement rate, for mileage to and from the airport to allow someone to drop them off and to pick them up.

(3) A traveler may use a private vehicle with approval from the [~~e~~]Executive [~~d~~]Director or designee.

(a) Only one person in a vehicle may receive the reimbursement, regardless of the number of people in the vehicle.

(b) Reimbursement for a private vehicle will be at the rate of 44 cents per mile or 62 cents per mile if a fleet vehicle is not available to the traveler.

(i) To determine which rate to use, the traveler must first determine if a fleet vehicle is available that meets the traveler's needs. This does not apply to special purpose vehicles. If reasonably available, the traveler should use a fleet vehicle. If a fleet vehicle is not reasonably available, the agency or political subdivision may approve the traveler to use a private vehicle. If a fleet vehicle is not reasonably available, the traveler may be reimbursed at 62 cents per mile.

(ii) If a trip is estimated to average 100 miles or more a day, the agency or political subdivision should approve the traveler to reserve a fleet vehicle if one is reasonably available. Doing so will cost less than if the traveler takes a private vehicle. If the agency or political subdivision approves the traveler to take a private vehicle, the traveler will be reimbursed at the lower rate of 44 cents per mile not to exceed the expense calculated in the link located in Subsection (e).

(c) A reimbursement rate that is more restrictive than the rate established in this section may be established by the agency or political subdivision.

(d) Any exceptions to this mileage rate guidance must be approved in writing by the traveler's [~~e~~]Executive [~~d~~]Director or designee.

(e) A cost comparison worksheet is available at: http://fleet.utah.gov/motor-pool-a/demand-motor-pool/personal-vehicle-vs-rental-vehicle/

(f) Mileage will be computed using Mapquest, GoogleMaps or other generally accepted route planning website, or from the latest official state road map and will be limited to the most economical, usually traveled routes.

(g) If the traveler uses a private vehicle on official business and is reimbursed for mileage, parking charges may be reimbursed as an incidental expense.

(h) For an agency traveler, an approved "Private Vehicle Usage Report", form FI 40, should be included with the documentation reporting miles driven on business during the payroll period.

(i) Mileage reimbursement may be allowed on an approved "Travel Reimbursement Request", form FI 51A, FI 51B, or in ESS Travel, or equivalent form or system, if other costs associated with the trip are to be reimbursed at the same time.

(4) A traveler may choose to drive instead of flying if preapproved by the executive or designee.

(a) If the traveler drives a fleet vehicle, the traveler may be reimbursed for meals and lodging for a reasonable amount of travel time; however, the total cost of the trip must not exceed the equivalent cost of the airline trip. The traveler may also be reimbursed for incidental expenses such as toll fees and parking fees.

(b) If the traveler drives a privately[-]_owned vehicle, reimbursement will be at the rate of 44 cents per mile or the airplane fare, whichever is less, unless otherwise approved by the [~~e~~]Executive [~~d~~]Director or designee.

(i) The lowest fare available within 30 days before the departure date will be used when calculating the cost of travel for comparison to private vehicle cost.

(ii) A comparison printout which is available through the [~~s~~]State [~~t~~]Travel [~~o~~]Office is required when the traveler is taking a private vehicle.

(iii) The traveler may be reimbursed for meals and lodging for a reasonable amount of travel time; however, the total cost of the trip must not exceed the equivalent cost of an airline trip.

(iv) If the traveler uses a private vehicle on official business and is reimbursed for mileage, parking charges may be reimbursed as an incidental expense.

(c) When submitting the reimbursement form, attach a schedule comparing the cost of driving with the cost of flying. The schedule should show that the total cost of driving was less than or equal to the total cost of flying for the trip.

[~~(d) If the travel time taken for driving during the traveler's normal work week is greater than that which would have occurred had the traveler flown, the excess time used must not count as time worked.~~]

(5) Use of non-fleet rental vehicles must be approved in writing in advance by the [~~e~~]Executive [~~d~~]Director or designee.

(a) An exception to advance approval of the use of rental vehicles [~~shall~~]must be fully explained in writing with the request for reimbursement and approved by the [~~e~~]Executive [~~d~~]Director or designee.

(b) Detailed explanation is required if a rental vehicle is requested for a traveler staying at a conference hotel.

(c) When making rental car arrangements through the [~~s~~]State [~~t~~]Travel [~~o~~]Office, the traveler should reserve the vehicle needed. Upgrades in size or model made when picking up the rental vehicle will not be reimbursed.

(i) A traveler should rent vehicles to be used for business in their own names, using a contract available to the traveler's agency or political subdivision to ensure the agency's or political subdivision's insurance coverage is extended in the rental.

(ii) For agency travelers, a rental vehicle reservation not made through the [~~s~~]State [~~t~~]Travel [~~o~~]Office must be approved in advance by the [~~e~~]Executive [~~d~~]Director or designee.

(iii) The traveler will be reimbursed the actual rate charged by the rental agency.

(iv) The traveler must have approval for a rental car to be reimbursed for rental car parking.

(6) Travel by private airplane for official business must be approved in advance by the [~~e~~]Executive [~~d~~]Director or designee.

(a) The pilot must certify to the [~~e~~]Executive [~~d~~]Director or designee that the pilot is certified to fly the plane being used for business.

(b) If the plane is owned by the pilot, the pilot must certify the existence of at least $500,000 of liability insurance coverage.

(c) If the plane is a rental, the pilot must provide written certification from the rental agency that the insurance covers the traveler and the agency or political subdivision as insured. The insurance must be adequate to cover any physical damage to the plane and at least $500,000 for liability coverage.

(d) Reimbursement will be made at 62 cents per mile.

(e) Mileage calculation is based on air mileage and is limited to the most economical, usually traveled route.

(7) For agency travelers, a car allowance may be allowed in lieu of mileage reimbursement in certain cases. Prior written approval from the [~~e~~]Executive [~~d~~]Director, the Executive Director of the Department of Government Operations, and the Governor is required.

R25-7-11. Limitation on Travel-Related Reimbursements.

Nothing in this rule may be construed to apply to a person's relocation expenses. Reimbursement for relocation expenses may be covered by policy.

R25-7-12. Eligible Expenses.

(1) Reimbursements are intended to cover any travel-related normal areas of expenses that are ordinary and reasonable under the circumstances.

(2) Requests for reimbursement must be accompanied by sufficient documentation for any expenses except those for which flat allowance amounts are established.

(3) Alcoholic Beverages are not reimbursable.

R25-7-13. Approvals.

(1) State business travel, whether reimbursed or not, must have prior approval by the appropriate authority. This also includes non-employees where the agency or political subdivision is paying for the travel expenses.

(2) The approval of in-state travel reimbursements in the State's Concur travel system may be considered evidence of prior approval for in-state travel. If an agency cannot use the State's Concur travel system, the agency may use the applicable FI 5 or FI 51 series form. Political subdivisions may use another system or form with equivalent controls and calculations.

(3) Out-of-state travel requests must be preapproved within the State's Concur travel system by the applicable Executive Director or designee. If an agency cannot use the State's Concur travel system, the agency may use the applicable FI 5 series form. Political subdivisions may use another system or form with equivalent controls and calculations.

(4) Exceptions to the prior approval for out-of-state travel must be approved by the applicable Executive Director or designee and must be justified in the State's Concur travel system. If an agency cannot use the State's Concur travel system, the agency must justify exceptions in the comments section of form FI 5 "Request for Out-of-State Travel Authorization." Political subdivisions may use another system with equivalent controls and calculations.

R25-7-14. Reimbursement for Meals.

(1) Travelers who travel on business may be eligible for a meal reimbursement according to the Federal Travel Reimbursement Rates.

(2) Federal Travel Reimbursement Rates include tax, gratuity, and other expenses associated with the meal.

(3) Meal reimbursement calculations will be completed according to the Federal Travel Reimbursement Rates.

(a) The amount received on the first and last day of travel equals 75% of the Federal Travel Reimbursement Rate.

(b) Complimentary meals and meals included in a registration cost are deducted from the total daily meal allowance.

(i) A continental breakfast will not reduce the meal allowance. A meal is considered a "continental breakfast" if no hot food items are offered, no matter how it is categorized by the facility.

(c) Meals provided on airlines will not reduce the meal allowance.

(4) A traveler is eligible for a taxable meal allowance of 75% of the Federal Travel Reimbursement Rate when travel is longer than 12 hours on a non-overnight trip.

R25-7-15. Meals for Statutory Non-Salaried State Boards.

(1) When a board meets and conducts business activities during mealtime, the cost of meals may be charged as public expense.

(2) Where employees or other advisors or consultants must attend such a meeting to permit the board to carry on its business, the meals of such employees, advisors, or consultants may also be paid. The board shall restrict the attendance of such employees, advisors, or consultants to only those necessary at such mealtime meetings.

R25-7-16. Booking and Reimbursement of Lodging.

(1) A traveler who travels on business may be eligible for lodging reimbursement.

(2) Travelers traveling less than 75 miles from their home base are not entitled to a lodging reimbursement. Exceptions may be allowed for unusual circumstances when approved in writing by the traveler's Executive Director or designee before the trip. Unusual circumstances may include instances where the traveler is required to work at the travel destination after normal working hours or early the next day, or when weather or other safety issues exist. Miles are calculated from the traveler's home base.

(3) Booking of Lodging.

(a) For stays at a conference hotel, the traveler shall book a room at the Federal Travel Reimbursement Rates. If the traveler cannot find a room within the Federal Travel Reimbursement Rates, but there is a negotiated conference rate, the traveler shall book directly with the hotel or conference link. Otherwise, the traveler may book the conference hotel up to 300% of the Federal Travel Reimbursement Rates using the State's Concur travel system or through the State Travel Office. If the conference hotel rate exceeds 300% of the Federal Travel Reimbursement Rates, the traveler shall select a non-conference hotel.

(b) For stays at a non-conference hotel, a traveler shall book lodging up to the Federal Travel Reimbursement Rates through the State's Concur travel system or through the State Travel Office. If the Federal Travel Reimbursement Rates cannot be obtained, the traveler shall book lodging at the best available rate up to 300% of the Federal Travel Reimbursement Rates through the State's Concur travel system or through the State Travel Office. If the available non-conference hotel rates exceed 300% of the Federal Travel Reimbursement Rate, lodging must be reserved through the State Travel Office.

(4) Reimbursement of Lodging.

(a) Reimbursement for conference hotels:

(i) Reimbursement for conference hotels must be processed through the State's Concur travel system. If an agency cannot use the State's Concur travel system, the agency may use the applicable FI 51 series form.

Political subdivisions may use another system or form with equivalent controls and calculations.

(ii) When a traveler booked a conference hotel through the State's Concur system or obtained the negotiated conference rate, the reimbursement will be the actual hotel rate up to 300% of the Federal Travel Reimbursement Rates plus sales tax and any mandatory fees.

(iii) The traveler shall include the conference registration materials as an attachment when submitting a request for reimbursement.

(b) Reimbursement for non-conference hotels

(i) Reimbursement for non-conference hotels must be processed through the State's Concur travel system. If an agency cannot use the State's Concur travel system, the agency may use the applicable FI 51 series form. Political subdivisions may use another system or form with equivalent controls and calculations.

(ii) When a traveler booked lodging at a rate up to the Federal Travel Reimbursement Rate, the reimbursement will be the actual hotel rate up to the Federal Travel Reimbursement Rate plus sales tax and any mandatory fees.

(iii) If a traveler was not able to obtain the Federal Travel Reimbursement Rate, the reimbursement will be the actual hotel rate up to 300% of the Federal Travel Reimbursement Rates plus sales tax and any mandatory fees.

(iv) When a hotel was available at the Federal Travel Reimbursement Rate, but the traveler booked a hotel with a higher rate, the reimbursement will be limited to the Federal Travel Reimbursement Rate.

(v) If a traveler booked a hotel at rate over 300% of the Federal Travel Reimbursement Rates with the State Travel Office, the reimbursement will be the actual hotel rate plus sales tax and any mandatory fees.

(c) Lodging Receipts. A proper receipt for lodging accommodations must accompany each request for reimbursement. A proper receipt is a copy of the registration form generally used by the motel or hotel which includes the following information: name of motel or hotel, street address, city and state, telephone number, receipt date, names of occupants, dates of occupancy, amount and date paid, and number in the party.

(5) Exceptions will be allowed for unusual circumstances when preapproved in writing by the traveler's Executive Director or designee.

(a) The written pre-approval must be attached to the reimbursement in the State's Concur travel system. If an agency cannot use the State's Concur travel system, the agency may use the applicable FI 5 or FI 51 series form. Political subdivisions may use another system or form with equivalent controls and calculations.

(6) Other Lodging.

(a) A traveler may elect to stay with friends or relatives. A traveler who stays with friends or relatives will be reimbursed $25 per night.

(b) A traveler may use their personal campers or trailer homes instead of staying in a hotel. The traveler will be reimbursed the actual cost up to the Federal Travel Reimbursement Rates per night if:

(i) The traveler submits proof of staying overnight away from home on approved business; and

(ii) Sufficient Documentation from a facility such as a campground or trailer park, not from a private residence.

R25-7-17. Reimbursement for Other Travel-Related Expenses.

Travelers who travel on business may be eligible for a reimbursement for other travel-related expenses.

(1) Fees and gratuities given to porters, baggage carriers, and hotel staff are considered an incidental expense and included as part of the Federal Travel Reimbursement Rate. These will not be reimbursed separately.

(2) An expense for a verifiable business call will be reimbursed at the actual cost.

(a) The traveler shall list the amount of these calls separately in the State's Concur travel system. If an agency cannot use the State's Concur travel system, the agency may use the applicable FI 51 series form. Political subdivisions may use another system or form with equivalent controls and calculations.

(b) The traveler shall provide a lodging receipt or non-business phone bill showing the phone number called and the dollar amount for business telephone calls and non-business telephone calls.

(3) Laundry expenses will be covered as an incidental expense and not separately reimbursed.

(4) An agency or political subdivision may provide for a traveler to return home over a weekend when the business portion of a trip extends longer than ten nights. Reimbursements may be given for costs allowed by these policies.

R25-7-18. Reimbursement for Transportation.

A traveler who travels on business may be eligible for a transportation reimbursement.

(1) A traveler will be reimbursed for ground transportation.

(a) A traveler shall document all official business use of taxi, ride sharing, bus, and other ground transportation, as well as dates, destinations, receipts, and amounts.

(i) Sufficient Documentation must be included with the travel reimbursement in the State's Concur travel system. If an agency cannot use the State's Concur travel system, the agency may use the applicable FI 51 series form. Political subdivisions may use another system or form with equivalent controls and calculations.

(b) Non-business use of ground transportation is not reimbursable, such as transportation to a restaurant.

(c) Gratuities for ground transportation that are paid in cash will be considered an incidental expense and not separately reimbursed.

(d) Gratuities for ground transportation will be reimbursed up to the greater of $5 or 20% for each ride if:

(i) The gratuity is paid with a credit card; and

(ii) The charges for ground transportation and the gratuity are on a single itemized receipt.

(iii) Sufficient Documentation must be submitted to receive reimbursement.

(2) A traveler will be reimbursed for parking.

(a) A traveler shall document all official business needs for parking which includes parking locations and duration.

(i) Sufficient Documentation must be submitted to receive reimbursement.

(b) Parking expenses for non-business use are not reimbursable, such as parking at a restaurant.

(c) Airport parking and long-term parking will be reimbursed at the maximum of the economy lot parking rate at the airport the traveler is flying out of.

(i) Sufficient Documentation must be submitted to receive reimbursement.

(d) Sufficient Documentation must be included with the travel reimbursement in the State's Concur travel system. If an agency cannot use the State's Concur travel system, the agency may use the applicable FI 48 or FI 51 series form. Political subdivisions may use another system or form with equivalent controls and calculations.

(3) Air transportation is limited to economy fares only. Priority seating charges will not be reimbursed unless preapproved by the Executive Director or designee.

(a) For agency travelers, all reservations must be made through the State's Concur travel system or the State Travel Office for the best available flight considering cost and convenience.

(b) Any change fees or charges for increased airfare must include:

(i) A written explanation for the change; and

(ii) Written approval by the Executive Director or designee.

(4) Travel to and from the airport.

(a) A traveler may be reimbursed for mileage to and from the airport and parking.

(b) A traveler may be reimbursed for round trip mileage to and from the airport to allow someone to drop them off and to pick them up.

(c) A traveler will be reimbursed for parking as outlined in Subsection R25-7-18(2) and mileage as outlined in Subsection R25-7-18(5).

(d) Sufficient Documentation must be included with the travel reimbursement in the State's Concur travel system. If an agency cannot use the State's Concur travel system, the agency may

use the applicable FI 51 series form. Political subdivisions may use another system or form with equivalent controls and calculations.

(5) A traveler may use a private vehicle with approval from the Executive Director or designee. Mileage will be reimbursed as follows.

(a) Mileage reimbursement rates:

(i) Agencies will reimburse at a calculated mileage rate rounded to the nearest cent based on the average of:

(A) the Federal Travel Reimbursement Rate if use of a privately owned automobile is authorized or if no Government-furnished automobile is available; and

(B) the Federal Travel Reimbursement Rate if a Government-furnished automobile is available.

(ii) Political subdivisions may reimburse mileage at the Federal Travel Reimbursement Rates or establish a system that is more stringent.

(b) Number of reimbursable miles. Agencies shall use the State's Concur travel system to calculate mileage. If unable to use the State's Concur travel system, agencies may calculate mileage using a generally accepted route planning website and will be limited to the most economical usually traveled routes. Political subdivisions may use another system or form with equivalent controls and calculations.

(c) Mileage reimbursements must be requested through the State's Concur travel system. If an agency cannot use the State's Concur travel system, the agency may use the applicable FI 40 or FI 51 series form. Political subdivisions may use another system or form with equivalent controls and calculations.

(d) Only one person in a vehicle may receive the reimbursement regardless of the number of people in the vehicle.

(6) A traveler may choose to drive instead of fly if preapproved by the Executive Director or designee. In granting the approval, the Executive Director or designee shall consider whether the reimbursement cost for the traveler's mileage and time driving exceeds the reimbursement cost of flying and whether the benefit to driving justifies those costs.

(7) Fleet Shared Motor Pool or Rental Vehicles:

(a) For in-state travel, agencies shall make all reasonable efforts to book a fleet shared motor pool vehicle through the Division of Fleet Operations or a rental car through the State Travel Office.

(b) For out-of-state travel, agencies shall book rental vehicles through the State's Concur travel system or the State Travel Office.

(i) Use of rental vehicles for out-of-state travel must be approved in writing in advance by the Executive Director or designee.

(A) An exception to advance approval of the use of rental vehicles for out-of-state travel must be fully explained in writing with the request for reimbursement and approved by the Executive Director or designee.

(B) Justification is required if a rental vehicle is requested for a traveler staying at a conference hotel.

(C) When traveling out-of-state, the traveler must have approval for a rental car to be reimbursed for rental car parking.

(c) When booking rental car arrangements through the State Travel Office or the State's Concur travel system, the traveler shall reserve the type of vehicle based on business needs. Upgrades in size or model made when picking up the rental vehicle will not be reimbursed.

(d) A traveler shall rent a vehicle in their own name, using a contract available to the traveler's agency or political subdivision to ensure the agency's or political subdivision's insurance coverage is extended in the rental.

(e) Payment or Reimbursement for Fleet Shared Motor Pool and Rental Vehicles.

(i) The Division of Fleet Operations shall directly bill agencies for the use of fleet shared motor pool vehicles.

(ii) For agencies, in-state rentals are billed directly to the agencies.

(iii) For out-of-state travel, reimbursements for rental vehicles must be processed through the State's Concur travel system. If an agency cannot use the State's Concur travel system, the agency may use the applicable FI 51 series form. Political subdivisions may use another system or form with equivalent controls and calculations.

(8) Travel by private airplane for official business must be preapproved in writing by the Executive Director or designee.

(a) The pilot must certify to the Executive Director or designee that the pilot is certified to fly the plane being used for business.

(b) If the plane is owned by the pilot, the pilot must certify the existence of at least $1,000,000 per person and $3,000,000 aggregate of liability insurance.

(c) If the plane is a rental, the pilot must provide written certification from the rental agency that the insurance covers the traveler and the agency or political subdivision as insured. The insurance must be adequate to cover any physical damage to the plane and at least $1,000,000 per person and $3,000,000 aggregate of liability insurance.

(d) Reimbursement will be made at the same rates described in Subsection R25-7-18(5).

(e) Mileage calculation is based on air mileage and is limited to the most economical usually traveled route.

R25-7-19. Political Subdivisions.

Political subdivisions that are subject to this rule may establish a system that is more stringent.

KEY: air travel, per diem allowances, state travelers, transportation
Date of Last Change: 2023[~~February 7, 2023~~]
Notice of Continuation: February 8, 2018
Authorizing, and Implemented or Interpreted Law: 63A-3-107; 63A-3-106

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R64-1**	**Filing ID: 55524**

Agency Information

1. Department:	Agriculture and Food
Agency:	Conservation Commission
Building:	TSOB South Bldg, Floor 2
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City, state and zip:	Salt Lake City, UT 84114-6500

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

General Information

2. Rule or section catchline:

R64-1. Agriculture Resource Development Loans (ARDL)

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

Changes to this rule are needed to address issues raised by the office of the Legislative Fiscal Analyst in a finding from the 2022 Accountable Budget Review of the Department of Agriculture and Food. The finding requests that rules be written in the ARDL program to address: 1) loan fund balance minimums; 2) the ability to charge service fees; 3) when to recalculate interest rates; and 4) grant awards authorized under Section 4-18-108.

4. Summary of the new rule or change:

Language has been added to Section R64-1-3 indicating that loans will be limited to $250,000 if available funds in the program are $3,500,000 or less, providing clarification on when interest rates may be recalculated, and requiring an administrative fee if available funds are $3,500,000 or less.

A new Section R64-1-5 has been added providing guidance regarding the awarding of grants under Section 4-18-108. This language mirrors statutory requirements for grants and indicates that grants may not be considered unless the balance of available funds is $10,000,000 or more.

Additional nonsubstantive changes have been made to make this rule text more consistent with the requirements of the Utah Rulewriting Manual.

Fiscal Information

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

A) State budget:

There is no anticipated changes to the state budget because the changes are clarifying program requirements but will not change the cost of program administration. The administrative fee charged for ARDL loans has not changed.

B) Local governments:

Local governments will not be impacted by these rule changes. They do not manage the program or receive ARDL loans.

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

Small businesses will not be impacted by these rule changes. The changes are clarifying in nature. The fee charged to loan recipients will not change.

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

Non-small businesses will not be impacted by these rule changes. The changes are clarifying in nature. The fee charged to loan recipients will not change.

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

Other persons will not be impacted by these rule changes. The changes are clarifying in nature. The fee charged to loan recipients will not change.

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

Loan recipients are currently paying a 1% administration fee under this program. The fee has not been impacted by these rule changes.

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

Total Fiscal Cost	**$0**	**$0**	**$0**
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
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

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

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

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 4-18-105		

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:	08/14/2023

9. This rule change MAY become effective on:	08/21/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Craig W Buttars, Commissioner	**Date:**	06/21/2023

R64. Agriculture and Food, Conservation Commission.
R64-1. Agriculture Resource Development Loans (ARDL).

R64-1-1. Authority and Purpose.

Pursuant to Section 4-18-105, this rule establishes general operating practices [~~by which~~]of the Agriculture Resource Development Loan (ARDL) program[~~shall function~~].

R64-1-2. Definitions.

(1) "Application" means a project proposal [~~which~~]that is prepared by an individual seeking ARDL funds through the process established by the commission and in accordance with Section 4-18-105.

(2) "ARDL Program Coordinator or Loan Administrator" means the staff administrator of the ARDL program employed by the Department of Agriculture and Food.

(3) "CD Board" means a conservation district board consisting of five appointed supervisors within each conservation district created by Section 4-18-105, to coordinate ARDL activities at the district level.

(4) "Commission" or "UCC" means the Utah Conservation Commission created by Section 4-18-104, that directs and implements the ARDL program throughout Utah, chaired by the Commissioner of the Utah Department of Agriculture and Food.

(5) "Resource Improvement and Management Plan" means a plan providing a schedule of operations, implementation and cost estimates, and other pertinent information prepared by a technical assistant, or technical assistance agency, that has been approved by a conservation district.

(6) "Technical Assistance" or "Technical Assistance Agency" means individuals or group of individuals, including administrative services individuals, who may be requested by an applicant client to provide specialized input for proposed projects.

(7) "UCC Subcommittee" means a committee, made up of the commission chair and at least two other members selected from and approved by the commission, who approve loans for ratification by the commission.

R64-1-3. Administration of Agriculture Resource Development [~~Fund~~]Loan Program.

(1) Annually,[~~T~~]the commission shall [~~annually~~]allocate funds appropriated for projects that further the objectives of the ARDL program, including:

(a) conserve agricultural resources of the state;

(b) increase agriculture yields and efficiency for croplands, orchards, pastures, range, and livestock;

(c) maintain and improve water quality;

(d) conserve and improve wildlife habitat;

(e) prevent flooding, drought, or other natural disasters; and

(f) provide and maintain protection of a crop or animal resource.

(2) An applicant shall:

(a) submit finalized project proposals to the loan administrator through their conservation district[~~s~~] for review;

(b) comply with district, zone, and commission application procedures[~~that are available at the district level~~]; and

(c) be subject to credit analysis and collateral valuation as required by the commission, including repayment capability, past and current financial holdings, fiscal obligations, and debt history.

(3) The UCC subcommittee shall:

(a) review applications for funding availability, including if the application exceeds loan limits established by commission policy;

(b) if requests may exceed available funds, rate and prioritize[~~d~~] applications[~~, when requests may exceed available funds,~~] according to:

(i) the quality of improvement[~~,~~] projects;[~~ and~~]

(ii) the improvements sought by the commission; and

(c) [~~consider~~]rating and approval information from CD boards.

(4) The commission will award loan contracts upon receipt of executed documents, generally consisting of promissory notes and other documents [~~that are agreed to and signed by the borrower~~]necessary to perfect liens on required security.

(5) If available ARDL funds are $3,500,000 or less as of the commission's approval date, total borrowings by one entity shall be limited to $250,000. Available ARDL funds shall be based on the current financial statement published by the department.

([~~5~~]6) The commission may charge an applicant a loan or technical assistance fee if proposed projects include technical issues that are sufficiently complex. The commission may require projects be supervised by designated personnel.

([~~6~~]7) Contracts with [~~applicants~~]loan recipients shall be based on repayment ability or defined collateral. Contracts shall include schedules for loan repayment according to the agreed upon interest rates and related fiscal conditions. The loan administrator may acquire appraisals and estimates of collateral values and [~~is authorized to~~]may obtain security or collateral to satisfy the contract until agreed upon amounts have been collected.

(8) Interest rates shall be set in policies and procedures adopted by the commission. The commission may recalculate interest rates based on:

(a) consideration of interest rates charged by other agricultural lenders;

(b) consideration of economic factors such as inflation, weather, and natural disasters; or

(c) following a recommendation from program staff.

(9) The commission may charge a percentage of loan disbursement as an administrative fee. A fee shall be required if the balance of available ARDL funds is $3.5 million or less.

([~~7~~]10) Commission designated personnel shall inspect and certify[~~L~~]loan funded projects [~~shall be inspected and certified by commission designated personnel for~~]to ensure compliance with contractual provisions.

([~~8~~]11) Under the direction of the commission, the loan administrator shall:

(a) manage the program;

(b) interpret guidelines;

(c) administer record-keeping operations;

(d) research financial collateral security information;

(e) process and service contracts associated with program functions;

(f) recommend loan approvals to the commission;

(g) analyze resource improvement and management plans; and

(h) administer loan servicing and collection activities.

R64-1-4. Emergency Loan Program.

([~~9~~]1) The commission may provide ARDL [~~loan~~]funds to agriculture producers to provide emergency disaster relief based on unusual or extraordinary circumstances such as flood, drought, or other natural disasters if:

(a) an emergency or natural disaster [~~that~~]has been declared within the prior six months by an authorized federal, state, or county entity, including the Utah governor's office;

(b) the parameters of the emergency loan program are [~~set forth~~]established in policies and procedures adopted by the commission;

(c) the commission or a UCC subcommittee approves the loans[~~ are approved by the commission or a subcommittee of the commission~~]; and

(d) the objectives of the loan program are consistent with [~~those set forth in~~]state law.

([~~9~~]2) The commission may exempt emergency loans from the requirements of [~~ARDL loans set forth~~]in Section R64-1-3.

([~~10~~]3) Emergency loan funds may not be used for projects that would normally be approved under the ARDL program.

R64-1-5. Grant Subprogram.

For the purposes of this section, "eligible entity" means any agricultural producer located in Utah using granted funds for an eligible purpose in Utah.

(1) Under Subsection 4-18-108(1), the commission may make a grant from the ARDL fund to an eligible entity.

(2) Under Subsection 4-18-108(2) in awarding a grant, the commission shall consider:

(a) the ability of the grantee to pay for the costs of the proposed plans or projects;

(b) the availability of matching funds or materials, labor, or other items of value provided by the grantee or another source; and

(c) the benefits to the public of the awarding of the grant.

(3) The commission may consider awarding grants under this part if the balance of available ARDL funds is at least $10 million. The $10 million calculation shall not include any funds appropriated for the Temporary Water Shortages Emergency Program created under Title 73, Chapter 3d, Water Preferences During Emergencies.

(4) Grant funds shall be used for purposes that conform to the purposes of the ARDL program and policies and procedures adopted by the commission.

(5) The availability and amount of grant funds disbursed under this section shall be at the discretion of the commission.

(6) At the discretion of the commission, grant funds under this section may be disbursed to local conservation districts to be granted to eligible entities within their districts.

KEY: loans
Date of Last Change: [~~February 1, 2022~~]2023
Notice of Continuation: July 23, 2019
Authorizing, and Implemented or Interpreted Law: 4-18-105

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	**R68-16**	**Filing ID: 55502**

Agency Information

1. Department:	Agriculture and Food
Agency:	Plant Industry
Building:	TSOB South Bldg, Floor 2
Street address:	4315 S 2700 W
City, state, and zip:	Taylorsville, UT 84129-2128

Mailing address:	PO Box 146500
City, state, and zip:	Salt Lake City, UT 84114-6500

Contact persons:

Name:	Phone:	Email:
Amber Brown	385-245-5222	ambermbrown@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov
Robert Hougaard	801-982-2305	rhougaard@utah.gov

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

General Information

2. Rule or section catchline:

R68-16. Quarantine Pertaining to Pine Shoot Beetle, Tomicus piniperda

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

Aphis/USDA eliminated this quarantine, and the Department of Agriculture and Food feels the quarantine is no longer needed for the state. Since this rule was going to expire in 2023, the agency is repealing the rule to reduce any confusion about the validity of this rule.

4. Summary of the new rule or change:

This filing repeals the rule in its entirety to allow the quarantine on Pine Shoot Beetle to be eliminated and is consistent with APHIS/USDA guidelines.

Fiscal Information

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

A) State budget:

Funding was not allocated to administer this quarantine, and the repeal of the quarantine will not impact the state budget.

B) Local governments:

Funding was not allocated to administer this quarantine, and the repeal of the quarantine will not impact local governments.

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

This quarantine would not impact small businesses because a small business would not administer the quarantine.

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

A non-small business would not administer or be impacted by the quarantine or the repeal of 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***)**:**

A person would not administer the quarantine or be impacted by the repeal of this rule.

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 because this rule is being repealed, and the quarantine is being eliminated.

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
Total Fiscal Cost	**$0**	**$0**	**$0**
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
Total Fiscal Benefits	**$0**	**$0**	**$0**

Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:
The Commissioner of the Department of Agriculture and Food, Craig W Buttars, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 4-35-109		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	08/14/2023

9. This rule change MAY become effective on:	08/21/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Craig W Buttars, Commissioner	**Date:**	06/20/2023

R68. Agriculture and Food, Plant Industry.

[~~R68-16. Quarantine Pertaining to Pine Shoot Beetle, Tomicus piniperda.~~

~~R68-16-1. Authority.~~

~~A. Promulgated under authority of Subsection 4-2-2(1)(k), and Section 4-35-9.~~

~~B. Refer to the Notice of Quarantine, Pine Shoot Beetle, Tomicus piniperda (Linnaeus), Effective December 28, 1992, issued by Utah Department of Agriculture and Food.~~

~~R68-16-2. Pest.~~

~~Pine Shoot Beetle, Tomicus Piniperda (Linnaeus), a beetle, family Scolytidae, is a serious pest of pine trees, and also known to damage fir, larch, and spruce trees by attacking the trunks and stems.~~

~~R68-16-3. Areas Under Quarantine.~~

~~All areas of the United States and Canada that are declared high risk by the United States Department of Agriculture, Animal and Plant Health Inspection Service, plant protection and quarantine or Utah Commissioner of Agriculture and Food.~~

~~R68-16-4. Articles and Commodities Under Quarantine.~~

~~The following are hereby declared to be regulated articles, hosts, and possible carriers of the Pine Shoot Beetle:~~

~~A. The Pine Shoot Beetle, Tomicus piniperda (Linnaeus), in any living stage of development.~~

~~B. Plants of the genus Pinus spp. whether balled and burlapped or cut live for use as Christmas trees.~~

~~C. Timber pine bark products or whole log forms of the genus Pinus spp., Abies spp., Larix spp., and Picea spp. with any bark intact.~~

~~D. Ornamental foliage from the genus Pinus spp. including pine wreaths and garlands, raw materials for wreaths and garlands, bark nuggets and bark chips.~~

~~E. Any other plant, plant part, article, or means of conveyance when it is determined by the Commissioner of the Department of Agriculture and Food or the Commissioner's duly authorized agent to present a hazard of spreading live Pine Shoot Beetle due to infestation or exposure to infestation by Pine Shoot Beetle.~~

~~R68-16-5. Restrictions.~~

~~A. All articles and commodities under quarantine are prohibited entry into Utah from an area under quarantine with the following exceptions:~~

~~1. From uninfested areas of the states listed in R68-16-3 when accompanied by a certificate of origin stating the origin of the material and that the plant material originated from an area not known to be infested with the Pine Shoot Beetle.~~

~~2. Regulated articles as listed in 7 CFR Chapter III 301.51-2.~~

~~R68-16-6. Treatment and Management Methods.~~

~~All treatment shall follow procedures as described in 7 CFR Chapter III 301.50-10.~~

~~R68-16-7. Disposition of Violations.~~

~~Any or all shipments or lots of quarantined articles or commodities listed in R68-16-4, arriving in Utah in violation of this quarantine shall immediately be sent out of the state, destroyed, or treated by a method and in a manner as directed by the Commissioner of the Utah Department of Agriculture and Food or his agent. Treatment shall be performed at the expense of the owner, or owners, or their duly authorized agent.~~

~~KEY: quarantine~~
~~Date of Last Change: July 2, 2008~~
~~Notice of Continuation: May 23, 2018~~
~~Authorizing, and Implemented or Interpreted Law: 4-2-2(1)(k); 4-35-9~~]

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	**R277-314**	**Filing ID: 55515**

Agency Information

1. Department:	Education
Agency:	Administration

Building:	Board of Education
Street address:	250 E 500 S
City, state and zip:	Salt Lake City, UT 84111
Mailing address:	PO Box 144200
City, state and zip:	Salt Lake City, UT 84114-4200

Contact persons:		
Name:	**Phone:**	**Email:**
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

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

General Information

2. Rule or section catchline:

R277-314. Provider Specific Licenses

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

This rule is being created as a result of the passage of S.B. 167, during the 2023 General Session.

4. Summary of the new rule or change:

This new rule establishes provisions for the new provider-specific license for limited use by online course providers.

Fiscal Information

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

A) State budget:

This proposed rule is not expected to have fiscal impact on state government revenues or expenditures. While S.B. 167 (2023) added Full Time Equivalency (FTE) and programming costs for the Utah State Board of Education (USBE) for the new provider-specific licenses, those impacts were captured in the fiscal note to the bill.

This proposed rule does not add any further costs for USBE for programming or for additional staff and does not have an effect on revenues.

B) Local governments:

This proposed rule is not expected to have fiscal impact on local governments' revenues or expenditures.

This rule applies to Statewide Online Education Program (SOEP) providers and does not have budget impact for Local Education Agencies (LEAs).

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

This proposed rule is not expected to have fiscal impact on small businesses' revenues or expenditures. This only impacts statewide online education providers.

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

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.

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

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

Teachers hired by online education providers will follow the new process, but it will not add costs for these teachers as they have generally been licensed through existing procedures.

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. The USBE is not aware of additional costs for compliance outside of the fiscal impacts captured in S.B. 167 (2023).

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
Total Fiscal Cost	**$0**	**$0**	**$0**
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
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

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

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Article X, Section 3	Subsection 53E-3-401(4)	Subsection 53E-6-201(1)(d)

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:	08/14/2023

9. This rule change MAY become effective on:	08/21/2023

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:	Angie Stallings, Deputy Superintendent of Policy	**Date:**	06/30/2023

R277. Education, Administration.
R277-314. Provider-Specific Licenses.
R277-314-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53E-6-201(1)(d), which requires the Board to establish a provider-specific license for educators providing academic instruction in online programs.

(2) The purpose of this rule is to set requirements and procedures for obtaining and using a provider-specific educator license.

R277-314-2. Definitions.

(1) "Authorized online course provider" or "provider" means the same as the term is defined in Subsection 53F-4-501(1).

(2) "Endorsement" means the same as the term is defined in Section R277-301-2.

(3) "License areas of concentration" or "license area" means the same as the term is defined in Section R277-301-2.

(4) "Renew" means to reissue or extend the length of time an educator license is valid consistent with Rule R277-302.

R277-314-3. Provider-Specific Educator License Structure.

(1) A provider-specific educator license shall include at least one of the following license areas of concentration:

(a) Elementary;

(b) Secondary; or

(c) Career and Technical Education;

(2) A provider may only request a license area identified in Subsection (1).

(3) A provider-specific license may only include provider-specific license areas and endorsements.

R277-314-4. Provider-Specific Educator License Requirements.

(1) The general requirements for a provider-specific educator license shall include:

(a) completion of a criminal background check, including:

(i) review of any criminal offenses and clearance in accordance with Rule R277-214; and

(ii) continued monitoring in accordance with Subsection 53G-11-403(1);

(b) completion of the educator ethics review no more than one calendar year before the application; and

(c) submission of a request by the provider no more than 60 days before the application, which includes the rationale for the request.

(2) The Superintendent may issue a provider-specific educator license to a candidate if:

(a) the provider requesting the provider-specific educator license has an adopted policy, posted on the provider's website, which includes:

(i) educator preparation and support:

(A) as established by the authorized online course provider; and

(B) aligned with the Utah Effective Teaching Standards described in Rule R277-530;

(ii) criteria for utilizing educators with a provider-specific license; and

(iii) compliance with all requirements of this rule;

(b) the provider applies on behalf of the candidate;

(c) the candidate meets all the requirements in this Section R277-314-4; and

(d) within the first year of employment, the provider trains the candidate on:

(i) educator ethics, including the educator standards described in Rule R277-217;

(ii) classroom management and instruction;

(iii) basic special education law and instruction; and

(iv) the Utah Effective Teaching Standards, described in Rule R277-530.

(3) A provider-specific license, license area, or endorsement is valid only for an authorized online course provider's programs and the educator's current assignment.

(4)(a) A provider-specific license, license area, or endorsement is valid for three years.

(b) A provider-specific license may renew after July 1 of the year of expiration.

(c) Prior to qualifying for renewal, an individual that holds a provider-specific Utah educator license shall:

(i) comply with the provider's policy for employment and professional learning;

(ii) provide documentation of 60 renewal hours, consistent with Section R277- 302-7;

(iii) complete the USBE educator ethics review during the year prior to the date of renewal;

(iv) maintain ongoing background monitoring in accordance with Section 53E-6- 401; and

(v) complete student and data security and privacy training for educators as described in Section R277-487-9.

(5) A provider may not issue a provider-specific endorsement in driver education.

(6) A provider-specific license expires immediately if the educator's assignment with the authorized online course provider that requested the license ends.

(7) A provider may request renewal of a provider-specific license if an educator meets professional learning requirements established by the Superintendent.

(8) The content knowledge and pedagogical requirements for a provider-specific educator license shall be established by the authorized online course provider.

(9) A provider that requests a provider-specific license, license area; or endorsement shall prominently post the following information on the provider's website:

(a) disclosure of the fact that the provider utilizes individuals holding provider-specific educator licenses, license areas, or endorsements;

(b) an explanation of the types of licenses issued by the provider;

(c) the percentage of the types of licenses, license areas, and endorsements held by educators employed by the provider, based on the employees' FTE as reported to the Superintendent; and

(d) a link to the Utah Educator Look-up tool provided by the Superintendent in
accordance with Subsection R277-312-7(6).

KEY: License, Provider-specific
Date of Last Change: 2023
Authorizing, and Implemented, or Interpreted Law: Art X, Sec 3; 53E-3-401(4); 53E-6-201(1)(d)

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R277-461**	**Filing ID: 55516**

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state and zip:	Salt Lake City, UT 84114-4200	
Contact persons:		
Name:	**Phone:**	**Email:**
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R277-461. Elementary School Counselor Grant Program
3. Purpose of the new rule or reason for the change:
This rule is being amended to provide language updates that are aligned with and conform to practice.
4. Summary of the new rule or change:
These amendments add language to clarify the definition of "Grant" and update the language pertaining to the procedures and criteria for awarding a grant.

Fiscal Information

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

A) State budget:

This rule change is not expected to have fiscal impact on state government revenues or expenditures.

The Utah State Board of Education (USBE) will not incur any additional costs or staff time associated with the language updates to the grant program. There is no impact to USBE revenues.

The USBE will still distribute grants funds with the existing process.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures.

The changes clarify risk factors and definitions, but USBE does not anticipate fiscal impact for Local Education Agencies (LEAs). Qualifying LEAs will apply with the existing process for grant funds.

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

This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures.

This only affects USBE and LEAs.

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

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.

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

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

This only affects USBE and LEAs.

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.

The USBE does not anticipate any added costs for USBE or LEAs to adhere to the language changes.

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
Total Fiscal Cost	**$0**	**$0**	**$0**
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
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

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

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

Citation Information

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

Article X, Section 3	Subsection 53E-3-401(4)	Subsection 53F-5-209(6)

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:	08/14/2023

9. This rule change MAY become effective on:	08/21/2023
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:	Angie Stallings, Deputy Superintendent of Policy	**Date:**	06/30/2023

R277. Education, Administration.
R277-461. Elementary School Counselor Grant Program.
R277-461-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53F-5-209, which directs the Board to make rules to administer the Elementary School Counselor Grant Program.

(2) The purpose of this rule is to provide:

(a) an application procedure;

(b) criteria and procedures for awarding grants; and

(c) requirements for grant recipients.

R277-461-2. Definitions.

(1) "Childhood trauma" means a child who has been exposed to one or more traumas over the course of the child's life and develops reactions that persist and affect the child's daily life after the events have ended.

(2) "Grant" means funding awarded by the Board to an LEA to hire qualifying personnel for purposes of supporting school-based mental health, in accordance with Section 53F-5-209.

([~~2~~]3) "Qualifying personnel" means the same as term is defined in Subsection 53F-5-209(1)(c).

(4) "Risk factors for childhood trauma" means behaviors or indicators including:

(a) office referrals or discipline reports;

(b) increased absenteeism;

(c) qualification for free or reduced-price lunch;

(d) experiencing homelessness;

(e) school-reported referrals to the Utah Division of Child and Family Services (DCFS);

(f) involvement with juvenile justice and youth services;

[~~(f)~~](g) participation in foster care;

(h) being subject to bullying, cyber-bullying, hazing, retaliation, and abusive conduct as defined in Rule R277-613;

[~~(g)~~](i) experiencing intergenerational poverty; and

[~~(h)~~](j) performing below benchmark [~~reading levels~~]on statewide assessments as defined in Section 53E-4-301.

R277-461-3. Grant Applications.

(1) The Superintendent shall develop and make available a grant application for LEAs, consistent with the requirements in Subsection 53F-5-209(4)(a).

(2) The grant application shall require the LEA to report how it intends to provide the matching funds required in Subsection 53F-5-209(4)(b), including the source of funding the LEA intends to use.

(3) For each grant cycle that the Superintendent is authorized to solicit grant applications, the Superintendent shall publish a timeline on the Board's website by March 30, including a date for the application release, and due dates for an LEA to submit required materials.

R277-461-4. Procedures and Criteria for Awarding a Grant.

(1) An LEA applying for a grant shall commit to establishing, at a minimum, a 3-year plan and program for using the grant funds.

(2) In accordance with Subsection 53F-5-209(3), the Superintendent shall prioritize LEA applications that propose to target funds as described in Section 53F-5-209.

(3) For purposes of prioritizing grants under this [~~R~~]rule, the Superintendent shall examine [~~an LEA's risk factors for childhood trauma~~]the prevalence of risk factors for childhood trauma as identified in the LEA's application.

R277-461-5. Grant Recipient Requirements, Accountability, and Reporting.

(1) Grant funds shall only be used to pay for salaries and benefits for [~~qualified~~]qualifying personnel.

(2) Qualifying personnel funded by these grant funds shall:

(a) implement a program to achieve an LEA's measurable goals as described in Subsection 53F-5-209(4)(a);[~~:~~]

(b) participate in USBE trainings;

(c) participate in regular collaboration meetings with USBE; and

(d) in accordance with Subsection 53F-5-209(8), participate in trauma-informed modules

(3) The Superintendent shall establish a process and accompanying forms for grant recipients to document grant requirements including annual reporting consistent with the requirements described in Subsection 53F-5-209(7).

KEY: grant program, school counselor, mental health, trauma-informed practice
Date of Last Change: 2023[~~April 8, 2021~~]
Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53E-3-401(4); 53F-5-209(6)

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	**R277-522**	**Filing ID: 55517**

Agency Information

1. Department:	Education
Agency:	Administration
Building:	Board of Education
Street address:	250 E 500 S
City, state and zip:	Salt Lake City, UT 84111
Mailing address:	PO Box 144200
City, state and zip:	Salt Lake City, UT 84114-4200

Contact persons:

Name:	**Phone:**	**Email:**
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

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

General Information

2. Rule or section catchline:

R277-522. Entry Years Enhancements (EYE) for Quality Teaching - Level 1 Utah Teachers

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

This rule is being repealed to effectuate the sunset provision on 06/30/2023.

4. Summary of the new rule or change:

This rule is repealed in its entirety.

Fiscal Information

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

A) State budget:

This proposed repeal is not expected to have fiscal impact on state government revenues or expenditures.

The Utah State Board of Education's (USBE's) licensing process has changed and this rule no longer applies. The USBE does not anticipate any costs or revenue changes associated with this repeal.

B) Local governments:

This proposed repeal is not expected to have fiscal impact on local governments' revenues or expenditures.

Local Education Agencies (LEAs) have already been made aware of licensing changes effectuated in other administrative rules.

The USBE does not anticipate any revenue changes or costs for LEAs associated with this repeal.

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

This proposed repeal is not expected to have fiscal impact on small businesses' revenues or expenditures.

This only affects educator licensing.

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

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.

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

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

This only affects educator licensing.

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 proposed repeal will not add costs for any entity.

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

Total Fiscal Cost	**$0**	**$0**	**$0**
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
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

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

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

Citation Information

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

Article X, Section 3	Subsection 53E-3-401(4)	Subsection 53E-6-103(2)(a)(iii)
Section 53E-6-301		

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:	08/14/2023

9. This rule change MAY become effective on:	08/21/2023

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:	Angie Stallings, Deputy Superintendent of Policy	**Date:**	06/30/2023

R277. Education, Administration.

[~~R277-522. Entry Years Enhancements (EYE) for Quality Teaching--Level 1 Utah Teachers.~~

~~R277-522-1. Authority and Purpose.~~

~~(1) This rule is authorized by:~~

~~(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;~~

~~(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;~~

~~(c) Subsection 53E-6-103(2)(a)(iii), which finds that the implementation of progressive strategies regarding induction, professional development and evaluation are essential in creating successful teachers; and~~

~~(d) Section 53E-6-301, which directs the Board to establish rules for the training and experience required of educator license applicants.~~

~~(2) The purpose of this rule is to outline required entry years enhancements of professional and emotional support for Level 1 teachers to develop successful teaching skills and strategies with assistance from experienced colleagues.~~

~~R277-522-2. Definitions.~~

~~(1) "Comprehensive Administration of Credentials for Teachers in Utah Schools" or "CACTUS" has the same meaning as set forth in Subsection R277-512-2(1).~~

~~(2) "Entry years" means the three years a beginning teacher holds a Level 1 license.~~

~~(3) "Interstate New Teacher Assessment and Support Consortium" or "INTASC" means the organization that has established Model Standards for Beginning Teacher Licensing and Development, which include ten principles reflecting what beginning teachers should know and be able to do as a professional teacher.~~

~~(4) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.~~

~~(5) "Level 1 license" has the same meaning as set forth in Subsection R277-503-2(9).~~

~~(6) "Level 2 license" has the same meaning as set forth in Subsection R277-503-2(10).~~

~~(7) "Level 3 license" has the same meaning as set forth in Subsection R277-503-2(11).~~

~~(8) "Mentor" means a Level 2 or Level 3 educator, who is trained to advise and guide Level 1 teachers.~~

~~(9) "Praxis II" or "Praxis II - Principles of Learning and Teaching" is a widely used standards based test designed by the Educational Testing Services to assess a beginning teacher's pedagogical knowledge.~~

~~(10) "Professional development" means locally or Board-approved education-related training or activities that enhance an educator's background consistent with Rule R277-501.~~

~~(11) "Teaching assessment or evaluation" means an observation of a Level 1 teacher's instructional skills by a school district or school administrator using an evaluation tool based on or similar to INTASC principles.~~

~~(12) "Working portfolio" means a collection of documents prepared by a Level 1 teacher and used as a tool for evaluation.~~

~~R277-522-3. Required Entry Years Enhancements Requirements for a Level 1 Teacher to Advance to a Level 2 License.~~

~~(1) Prior to advancement to a Level 2 license, a Level 1 teacher shall:~~

~~(a) satisfactorily collaborate with a trained mentor;~~

~~(b) pass a required pedagogical exam;~~

~~(c) complete three years of employment and evaluation; and~~

~~(d) compile a working portfolio.~~

~~(2) A principal shall assign a mentor to each Level 1 teacher in the first semester of teaching to supervise and act as a resource for the entry level teacher.~~

~~(3) A mentor teacher shall teach in the same school, and where feasible, in the same subject area as the Level 1 teacher.~~

~~(4) A mentor assigned in accordance with Subsection (2) shall:~~

~~(a) hold a Level 2 or 3 license; and~~

~~(b) have completed a mentor training program including continuing professional development.~~

~~(5) A mentor assigned in accordance with Subsection (2) shall:~~

~~(a) guide the Level 1 teacher to meet the procedural demands of the school and school district;~~

~~(b) provide moral and emotional support;~~

~~(c) arrange for opportunities for the Level 1 teacher to observe teachers who use various models of teaching;~~

~~(d) share personal knowledge and expertise about new materials, planning strategies, curriculum development and teaching methods;~~

~~(e) assist the Level 1 teacher with classroom management and discipline;~~

~~(f) support the Level 1 teacher on an ongoing basis;~~

~~(g) help the Level 1 teacher to understand the implications of student diversity for teaching and learning;~~

~~(h) engage the Level 1 teacher in self-assessment and reflection; and~~

~~(i) assist with development of the Level 1 teacher's portfolio.~~

~~(6) A Level 1 teacher shall pass the Praxis II with a qualifying score of at least 160 prior to advancing to Level 2 licensure.~~

~~(a) A Level 1 teacher may take the Praxis II successive times.~~

~~(b) The Superintendent shall post a Level 1 teacher's Praxis II results in CACTUS.~~

~~(7) A Level 1 teacher shall successfully complete evaluation through an LEA or accredited private school.~~

~~(a) A Level 1 teacher shall maintain full-employment for three years in an LEA or accredited private school.~~

~~(b) An employing LEA or accredited private school may, following evaluation of a Level 1 teacher's experience, determine that teaching experience outside of the Utah public schools satisfies the teaching experience requirement of this rule.~~

~~(c) An LEA has discretion in determining the employment or reemployment status of individuals.~~

~~(d)(i) A Level 1 teacher's employing LEA or accredited private school is responsible for conducting the evaluations required under this rule.~~

~~(ii) An LEA may assign evaluations required under this rule to a school principal.~~

~~(e) A Level 1 teacher's evaluations shall take place at least twice during the first year of teaching and at least twice during each of the following two years with a satisfactory final evaluation.~~

~~(8) A Level 1 teacher shall compile a working portfolio during the teacher's entry years.~~

~~(a) A Level 1 teacher's employing LEA or accredited private school shall review and evaluate the portfolio.~~

~~(b) The Superintendent may review the portfolio upon request during the Level 1 teacher's second year of teaching.~~

~~(9) A portfolio required under Subsection (8) shall be based upon INTASC principles; and may:~~

~~(a) include teaching artifacts;~~

~~(b) include notations explaining the artifacts; and~~

~~(c) include a reflection and self-assessment of the teacher's own practice; or~~

~~(d) be interpreted broadly to include the employing LEA's or accredited private school's requirement of samples of the first year teaching experience.~~

~~R277-522-4. Satisfaction of Entry Years Enhancements.~~

~~(1) If a Level 1 teacher fails to complete all enhancements as enumerated in Section R277-522-3, the Level 1 teacher may remain in a provisional employment status until the Level 1 teacher completes the enhancements.~~

~~(a) An LEA or accredited private school may make a written request to the Superintendent for a one year extension of the Level 1 license in order to provide time for the educator to satisfy entry years enhancements.~~

~~(b) A Level 1 teacher may repeat some or all of the entry years enhancements.~~

~~(c) An opportunity to repeat or appeal an incomplete or unsatisfactory entry years enhancements process shall be designed and offered by the employing LEA or accredited private school.~~

~~(2) An LEA or accredited private school shall make an annual recommendation to the Board of teachers approved in its schools to receive a Level 2 license, including documentation demonstrating completion of the enhancements.~~

~~(3) An LEA or accredited private school may also report the names of teachers who did not successfully complete entry years enhancements to the Board.~~

~~(4) The Superintendent shall prepare an annual report tracking the success of retention and the job satisfaction of Utah educators who complete the entry years enhancement program.~~

~~R277-522-5. Sunset Clause.~~

~~(1) This rule will sunset on June 30, 2023.~~

~~(2) An individual holding a current Level 1 license on January 1, 2020 may be upgraded to a Level 2 license without completing the requirements of Subsection R277-522-3(6).~~

~~KEY: mentoring, teachers~~
~~Date of Last Change: August 19, 2019~~
~~Notice of Continuation: September 15, 2022~~
~~Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-6-103(2)(a)(iii); 53E-6-301; 53E-3-401(4)~~]

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R277-618**	**Filing ID: 55518**

Agency Information

1. Department:	Education
Agency:	Administration
Building:	Board of Education

Street address:	250 E 500 S
City, state and zip:	Salt Lake City, UT 84111
Mailing address:	PO Box 144200
City, state and zip:	Salt Lake City, UT 84114-4200

Contact persons:

Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

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

General Information

2. Rule or section catchline:

R277-618. Homeless Teen Center Grant Program

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

This rule is being amended due to the passage of H.B. 2, during the 2023 General Session.

4. Summary of the new rule or change:

These amendments expand support for teen centers and services in Utah schools, primarily for vulnerable and at-risk students.

Fiscal Information

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

A) State budget:

This rule change is not expected to have fiscal impact on state government revenues or expenditures.

The Legislature provided additional funding for teen centers.

The Utah State Board of Education (USBE) already has the application process and reimbursement process in place and does not anticipate any additional costs for staffing or resources as a result of additional funding for teen centers.

This does not affect USBE revenue as the grant is for Local Education Agencies (LEAs).

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures.

The additional funding was provided by the Legislature in H.B. 2 (2023). There are some adjustments to language in the application and scoring criteria that apply to all interested LEAs; however, USBE does not anticipate any additional costs or changes to LEA budgets.

Interested LEAs may still apply using the existing process for grant funding.

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

This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures.

This only affects USBE and LEAs.

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

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.

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

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

This only affects USBE and LEAs.

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.

There are no costs associated with refining the grant application language for USBE or LEAs.

The overall grant process is still in place and interested LEAs may apply.

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
Total Fiscal Cost	**$0**	**$0**	**$0**
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
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

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

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

Citation Information

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

Article X, Section 3	Subsection 53E-3-401(4)	

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:	08/14/2023

9. This rule change MAY become effective on:	08/21/2023

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:	Angie Stallings, Deputy Superintendent of Policy	**Date:**	06/30/2023

R277. Education, Administration.
R277-618. [~~Homeless~~]Teen Center Grant Program.
R277-618-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to provide:

(a) the criteria for ranking applications for a [~~homeless~~]teen center grant to serve students experiencing homelessness and other vulnerable and at-risk students;

(b) the funding limit and allowable uses; and

(c) the required data collection for measuring success of the grant.

R277-618-2. Definitions.

(1) "Eligible school" means a public K-12 school with a physical building.

[~~(1)~~](2) "Family service worker" or "FSW" means a school employee who connects families and parents with the resources needed to self-sustain and thrive, including:

(a) identify physical and emotional self-care;

(b) stress-coping mechanisms; and

(c) advocate for the family's needs.

[~~(2)~~](3) "Free application for student federal aid" or "FASFA" means the official form to apply for federal financial aid to pay for college provided by the Department of Education.

[~~(3)~~](4) "Wrap-around services" means services that bring families, providers, and key members of the family's social support network together to collaborate to build a customized plan of care that responds to the unique needs of the child and family.

R277-618-3. Application and Scoring Criteria.

(1) Subject to legislative appropriation, an LEA may apply for the[~~homeless~~] teen center grant.

(2) An LEA's application shall include the following:

(a) capacity of the LEA to staff the center with a FSW that will provide wrap-around services for the students;

(b) a demonstration of the ability to provide [~~homeless~~]students, including students experiencing homelessness, with assistance, guidance, and connection to necessary resources;

(c) the ability to provide the services within the center, [~~including~~]that may include:

(i) a food pantry that is community-based allowing access to food services;

(ii) showers and hygiene necessities;

(iii) laundry facilities, including a washer and dryer;

(iv) academic [~~counseling and~~]advisement, including:

(A) FAFSA applications for grants and loans; and

(B) work study funds available at universities and tech colleges;

(v) collaboration with [~~district and county agencies~~]community partners to provide access to:

(A) [~~for~~]mental, dental, medical, and vision services;

[~~(vi)~~](B) [~~mindfulness and social and emotional resources, including access to a FSW;~~]wellness space and resources;

[~~(vii)~~](C) [~~availability to connect with~~]spiritual and religious resources; and

[~~(viii)~~](D) [~~collaboration with a local tech college for~~]technical job training before graduation;

(d) readiness of facilities to house a [~~homeless~~]teen center at [~~a school campus~~]an eligible school, including general construction plans, if required;

(e) quantitative or qualitative data to [~~demonstrated~~]demonstrate the need for a [~~homeless~~]teen center[~~, including:~~];

[~~(i) homeless teen population within the LEA, including recent population trends;~~

~~(ii) lack of existing infrastructure or resources to service current population needs;~~

~~(iii) other quantitative or qualitative data that demonstrate overall need;~~]

(f) a budget outlining the intended use of the grant funds;

(g) a timeline for achieving an operational [~~homeless~~]teen center; and

(h) ability to maintain and keep the [~~homeless~~]teen center operational over time.

(3) An LEA shall apply for the grant in a form and within the deadlines specified by the Superintendent.

(4) An LEA's application shall be scored and ranked by the Superintendent based upon the overall:

(a) demonstrated need for a [~~homeless~~]teen center;

(b) quality of the budget proposal and timeline as described in Subsection (2); and

(c) capacity to maintain an operational [~~homeless~~]teen center, as described in Subsection (2).

(5) The Superintendent may prioritize schools that:

(a) serve any grade between 9-12; or

(b) prioritize services for students experiencing homelessness.

[~~(5)~~](6) The Superintendent shall select and notify grant awardees within 30 days of the application deadline.

R277-618-4. Funding and Measurements of Success.

(1) A grant awardee may [~~not~~]receive [~~more than~~]up to $250,000 per eligible school on a [~~for an approved application and all awards are~~]reimbursement[~~based~~] basis.

(2) A grant awardee shall submit for reimbursement in a form and timeline determined by the Superintendent.

(3) A grant awardee may only be reimbursed for expenditures outlined within the grant awardee's budget submitted as part of the application described in Subsection R277-618-3(2).

(4) A grant awardee may seek a budget variance from the Superintendent if the variance is sought before the expenditure of funds for the variance.

(5) The Superintendent shall review and approve or deny a variance request within 30 days of receiving the request.

(6) A grant awardee shall collect the following data to measure success of the [~~homeless~~]teen center:

(a) the [~~projected~~]number of students [~~experiencing homelessness~~]that are served by the [~~homeless~~]teen center annually; and

[~~(b) evidence of a match of a 0.5 full time equivalent funding for a teen center coordinator within the LEA or school campus hosting the homeless teen center;~~]

[~~(c)~~](b) participation of community partners[~~, including:~~

~~(i) local food bank;~~

~~(ii) local health authority; and~~

~~(iii) other community based organizations including religious faith-based services and non-sectarian social services; and~~

~~(d) annual attendance data of the students served by the homeless teen center~~].

(7) A grant awardee shall provide the data described in Subsection [~~(5)~~](6) to the Superintendent upon request.

KEY: [~~homeless teens~~]at-risk students, teen center, grant
Date of Last Change: 2023[~~October 11, 2022~~]
Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53E-3-401(4)

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R277-721**	**Filing ID: 55519**

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state and zip:	Salt Lake City, UT 84114-4200	
Contact persons:		
Name:	**Phone:**	**Email:**
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R277-721. PRIME Pilot Program
3. Purpose of the new rule or reason for the change:
This rule is being amended due to the passage of H.B. 318, during the 2023 General Session.

4. Summary of the new rule or change:

These amendments update this rule to reflect legislative changes, transitioning the Prime Program from a pilot to ongoing program.

Fiscal Information

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

A) State budget:

This rule change is not expected to have fiscal impact on state government revenues or expenditures.

The PRIME program has been changed from a pilot to an ongoing program by H.B. 318 (2023).

The Utah State Board of Education (USBE) does not anticipate added costs for staff or resources associated with maintaining the existing framework for the PRIME program.

There are no changes to USBE revenues associated with the rule change.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures.

Local Education Agencies (LEAs) may still apply for the PRIME program grants, they are simply ongoing as compared to a pilot program.

The rule changes do not add costs for LEAs or change their revenues.

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

This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures.

This only affects USBE and LEAs.

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

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.

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

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

This only affects LEAs and USBE.

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 change does not add any costs for USBE as the process is existing.

LEAs have no additional costs to apply for the grants.

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

Regulatory Impact Table

Fiscal Cost	**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
Total Fiscal Cost	**$0**	**$0**	**$0**
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
Total Fiscal Benefits	**$0**	**$0**	**$0**

Net Fiscal Benefits	**$0**	**$0**	**$0**
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Article X, Section 3	Section 53E-3-401	

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:	08/14/2023

9. This rule change MAY become effective on:	08/21/2023
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:	Angie Stallings, Deputy Superintendent of Policy	**Date:**	06/30/2023

R277. Education, Administration.
R277-721. PRIME [~~Pilot~~]Program.
R277-721-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53E-10-309, which requires the Board to make rules to establish the requirements for the Utah [~~Prime Pilot~~]PRIME Program.

(2) The purpose of this rule is to:

(a) establish eligibility requirements for a participating LEA; and

(b) create an application process for LEAs to apply for the [~~pilot~~]program.

R277-721-2. Definitions.

(1) "Career and technical education" or "CTE" means the same as the term is defined in Subsection 53B-1-101.5(3).

(2) "Concurrent enrollment" or "CE" means the same as the term is defined in Subsection R277-701-2(2).

(3) "Program" means the PRIME [~~pilot~~]program as described in [~~Subsection 53E-10-309(7)~~]Section 53E-10-309.

(4) "Underrepresented students" means the same as the term is defined in Subsection R277-707-2(6).

(5) "Technical college" means the same as the term is defined in Subsection 53B-1-101.5(7).

(6) "Utah System of Higher Education" or "USHE" means the same as the term is defined in Section 53B-1-102.

R277-721-3. PRIME Program--Eligibility, Application, and Review Committee.

(1) Subject to legislative appropriation, [~~all LEAs~~]an LEA may apply for a PRIME pilot program grant.

(2) An LEA's application shall contain the following:

(a) a budget proposal for the use of funds;

(b) how the LEA will increase access to courses for underrepresented students;

(c) a list of the current CE and CTE courses the LEA offers[~~including courses as described in Subsections 53E-10-309(2), (3), and (4)~~];

(d) a detailed plan of implementation including current gaps the[~~PRIME pilot~~] program will address; and

(e) requisite baseline data established by the Superintendent.

(3) [~~An LEA's~~]The Superintendent, along with the committee established in Subsection (4), shall score and rank [~~application shall be scored and ranked~~]each application based upon the quality of the LEA's overall budget proposal and application as described in Subsection (2).

(4) The Superintendent shall create a PRIME program advisory committee.

(5) The advisory committee shall include the following members as non-voting chairs:

(a) The Superintendent[~~or designee~~]; and

(b) The Commissioner of Higher Education or the commissioner's designee.

(6) In addition to the chairs described in Subsection (5), the Board shall appoint [~~seven~~]additional members to the committee including:

(a) an early college specialist;

(b) a CTE coordinator, or the coordinator's designee;

(c) a technical college representative;

(d) a representative of USHE;

(e) a member of the State Charter School Board; and

(f) [~~an early college alliance designee; and~~

~~(g)~~]a secondary LEA designee.

[~~(7) The advisory committee shall:~~

~~(a) review, score, and rank the LEA applications as described in Subsection (3); and~~

~~(b) award PRIME pilot program grants:~~]

(7) The Superintendent shall award program grants:

([~~i~~]a) based upon the score and rank assigned in accordance with Subsection (3); and

([~~ii~~]b) [~~as described in Subsection 53E-10-309(7)(b)~~]consistent with Section 53E-10-309.

R277-721-4. Performance Measures and Reporting.

(1) An LEA that receives a [~~PRIME pilot~~]program grant shall submit to the Superintendent an annual progress report by June 30 that includes:

(a) demographic data of participating students compared to overall LEA demographics;

(b) growth of the program compared to the program baseline data submitted in the LEA's application;

(c) how the LEA has closed access gaps with underrepresented students;

(d) itemized budgetary expenditures; and

(e) overall effectiveness of the program.

[~~(2) The Superintendent shall incorporate data regarding certificates awarded within each participating LEA into the legislative report described in Subsection 53E-10-309(7)(d).~~]

([~~3~~]2) An LEA may request a complete list of awarded certificates from the Superintendent.

R277-721-5. Distribution and Use of Funds.

(1) An LEA may receive up to the LEA's requested amount not to exceed $100,000 annually[~~, for two years~~].

(2) An LEA may not use funds [~~for~~]to:

(a) fund non-CTE or CE courses;

(b) [~~to~~]supplant local funds;

(c) pay indirect costs charged by the LEA;

(d) cover expenditures not listed in the LEA's proposed budget.

KEY: PRIME, concurrent enrollment, CTE, early college
Date of Last Change: 2023[~~November 10, 2020~~]
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R277-750**	**Filing ID: 55520**

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state and zip:	Salt Lake City, UT 84114-4200	
Contact persons:		
Name:	**Phone:**	**Email:**
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R277-750. Education Programs for Students with Disabilities
3. Purpose of the new rule or reason for the change:
This rule is being amended due to the passage of H.B. 2, during the 2023 General Session.
4. Summary of the new rule or change:
These amendments update the Incorporated by Reference, Special Education Rules Manual. In the Maintenance of Effort section of the Manual, changes were made regarding a Local Education Agency's (LEA) ability to un-restrict a portion of its state special education funds. Amendments were also made to align with recent amendments to student enrollment and measurement requirements in Rule R277-419.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have fiscal impact on state government revenues or expenditures. The rule change references the Local Education Agency (LEA) fiscal flexibility changes in H.B. 2 (2023). These changes allow LEAs to un-restrict a portion of their restricted state special education funds if desired. The changes do not add costs for the Utah State Board of Education (USBE) or changes USBE revenues.
B) Local governments:
This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. The impacts of LEAs unrestricting restricted state special education funds were captured in the fiscal response to H.B. 2 (2023). The rule change does not have any independent impact on LEA expenses or revenues.
C) Small businesses ("small business" means a business employing 1-49 persons)**:**
This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. This only affects USBE and LEAs.

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

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.

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

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

This only affects USBE and LEAs.

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.

There are no additional costs for USBE or LEAs to implement this rule change.

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

Regulatory Impact Table

Fiscal Cost	**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
Total Fiscal Cost	**$0**	**$0**	**$0**
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
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

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

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

Citation Information

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

Article X, Section 3	Subsection 53E-3-401(4)	Title 53E, Chapter 7, Part 2
Subsection 53E-3-501(1)		

Incorporations by Reference Information

7. Incorporations by Reference:

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

Official Title of Materials Incorporated (from title page)	Special Education Rules
Publisher	Utah State Board of Education
Issue Date	June 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.)

A) Comments will be accepted until:	08/14/2023

9. This rule change MAY become effective on:	08/21/2023

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:	Angie Stallings, Deputy Superintendent of Policy	**Date:**	06/30/2023

R277. Education, Administration.
R277-750. Education Programs for Students with Disabilities.
R277-750-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-501(1), which directs the Board to adopt rules regarding services for persons with disabilities;

(c) Title 53E, Chapter 7, Part 2, Special Education Program, which requires the Board to adopt rules regarding educational services to students with disabilities; and

(d) Subsection 53E-3-401(4) which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to specify standards and procedures for special education programs.

R277-750-2. Incorporation of Special Education Rules Manual by Reference.

(1) This rule incorporates by reference the Special Education Rules manual dated [~~November 2022~~]June 2023, which establishes policies and procedures for:

(a) appropriate and timely identification of a student with a disability;

(b) evaluation and classification of a student with a disability by qualified personnel;

(c) standards for services provided to a student with a disability;

(d) provision for multi-district programs for a student with a disability;

(e) provision for delivery of service responsibilities;

(f) certification and qualifications for instructional staff; and

(g) the state's implementation of federal special education programs, including IDEA.

(2) A copy of the manual is located at:

(a) ~~https://www.schools.utah.gov/specialeducation/programs/rulespolicies?mid=4962&tid=1~~]https://www.schools.utah.gov/File/910cb0d1-b00c-49e4-b799-74c7127a77b0; and

(b) the Utah State Board of Education.

R277-750-3. Standards and Procedures.

[~~(1) The Board hereby incorporates by reference the IDEA as the Board's rules for students with disabilities.~~

~~(2)~~]The Superintendent and LEAs shall provide services to a student with a disability in accordance with:

[~~(a)~~](1) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794;

[~~(b)~~](2) this rule;

[~~(c)~~](3) the Special Education Rules, [~~November 2022~~]June 2023, included in the Special Education Rules manual described in Section R277-750-2; and

[~~(d)~~](4) the annual Utah State Federal Application under Part B of the IDEA.

KEY: special education
Date of Last Change: [~~January 11,~~] 2023
Notice of Continuation: April 14, 2021
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; Title 53E, Chapter 7, Part 2; 53E-3-501(1); 53E-3-401(4)

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R414-60**	**Filing ID: 55503**

Agency Information

1. Department:	Health and Human Services	
Agency:	Health Care Financing, Coverage and Reimbursement Policy	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 143102	
City, state and zip:	Salt Lake City, UT 84114-3102	
Contact persons:		
Name:	**Phone:**	**Email:**
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R414-60. Medicaid Policy for Pharmacy Program
3. Purpose of the new rule or reason for the change:
The purpose of this change is to update and clarify this rule text as needed. Additionally, this rule updates the authorizing citations following the 2023 General Session recodification of the Department of Health and Human Services' (Department) statute.

4. Summary of the new rule or change:
This amendment updates names, terms, and entities in the text. It also makes other technical and structural changes. Additionally, this amendment updates the authorizing citations of this rule, this is due to the recodification and consolidation of the Department's statute.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no impact to the state budget as there are only minor changes and technical updates.
B) Local governments:
There is no impact on local governments as they neither fund nor provide benefits under the Medicaid program.
C) Small businesses ("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.
D) Non-small businesses ("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.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
There is no impact 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
Total Fiscal Cost	**$0**	**$0**	**$0**
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
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:
The Executive Director of the Department of 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-1-213	Section 26B-3-108	

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:	08/14/2023

9. This rule change MAY become effective on:	08/21/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	**Date:**	06/15/2023

R414. Health and Human Services, Health Care Financing, Coverage and Reimbursement Policy.
R414-60. Medicaid Policy for Pharmacy Program.
R414-60-1. [~~Introduction~~]Purpose and Authority.

(1) The Medicaid Pharmacy program reimburses for covered outpatient drugs dispensed to eligible Medicaid [~~clients~~]members by a pharmacy enrolled with Utah Medicaid pursuant to a prescription from an enrolled prescriber operating within the scope of the prescriber's license.

(2) Sections 26B-1-213 and 26B-3-108 authorize this rule.

R414-60-2. Definitions.

(1) "Covered outpatient drug" means a drug that meets the Centers for Medicare and Medicaid Services (CMS) covered outpatient drug definition as outlined in 42 CFR 447.502. The following provisions also apply:

(a) requires a prescription for dispensing;

(b) has a national drug code number;

(c) is eligible for federal medical assistance percentages funds;

(d) has been approved by the Food and Drug Administration; and

(e) is listed in the nationally recognized drug pricing index under contract with the Department.

(2) "Full-benefit dual eligible [~~beneficiary~~]member" means an individual who has Medicare and Medicaid benefits.

(3) "Rural pharmacy" means a pharmacy located in the state[~~-of Utah~~] and is not located in Weber County, Davis County, Utah County, or Salt Lake County.

(4) "Urban pharmacy" means a pharmacy located in Weber County, Davis County, Utah County, Salt Lake County, or in another state.

(5) "Usual and customary charge" means the lowest amount a pharmacy charges the general public for a covered outpatient drug, which reflects advertised savings, discounts, special promotions, or any other program available to the general public.

(6) "Wholesale acquisition cost" means the list price paid by the wholesaler, distributor, and other direct accounts for drugs purchased from the wholesaler's supply.

(7) "Medically accepted indication" in accordance with 42 U.S.C. 1396r-8 (k)(6), is any use approved by the Food and Drug Administration (FDA) and Cosmetic Act, or a use supported on one of the following compendia:

(a) American Hospital Formulary Service Drug Information;

(b) United State Pharmacopeia-Drug Information; or

(c) the DRUGDEX Information System.

R414-60-3. Member Eligibility Requirements.

(1) Medicaid covers prescription drugs for individuals who are categorically and medically needy under the Medicaid program.

(2) In accordance with Subsection 1935(a) of the Social Security Act, Medicaid does not cover [~~O~~]outpatient drugs included in the Medicare Prescription Drug Benefit-Part D for full-benefit dual eligible [~~beneficiaries~~]members[~~-will not be covered under Medicaid in accordance with Subsection 1935(a) of the Social Security Act~~]. Certain limited drugs provided in accordance with Subsection 1927(d)(2) of the Social Security Act to Medicaid members, but not included in the Medicare Prescription Drug Benefit-Part D, are payable by Medicaid.

(3) Outpatient drugs included in contracts with the Accountable Care Organization (ACO) must be obtained through the ACO for members enrolled in an ACO.

(4) Classes of medications and individual drugs carved out from the ACO must be obtained through the [~~F~~]fee-for-service [~~(FFS)~~]benefit.

R414-60-4. Program Coverage.

(1) Covered outpatient drugs eligible for [~~F~~]federal [~~M~~]medical [~~A~~]assistance [~~P~~]percentages funds are included in the pharmacy benefit; however, covered outpatient drugs may be subject to limitations and restrictions.

(2) In accordance with Subsection 58-17b-606(4), [~~when~~]if a multi-source A-rated legend drug is available in the generic form, Medicaid [~~will only~~]reimburses only for the generic form of the drug unless:

(a) reimbursing for the non-generic brand-name legend drug will result in a financial benefit to the state;

(b) the treating physician demonstrates a medical necessity for dispensing the non-generic, brand-name legend drug; or

(c) the generic form of the drug is unavailable in the marketplace as defined in the Utah Medicaid Pharmacy Services Provider Manual.

(3) 42 U.S.C 1396b(i)(23) requires Medicaid prescriptions not executed electronically to be written on tamper-resistant prescription forms as follows:

(a) tamper-resistant prescription forms must include each of the following:

(i) one or more industry-recognized features designed to prevent unauthorized copying of a completed or blank prescription form;

(ii) one or more industry-recognized features designed to prevent the erasure or modification of information written on the prescription by the prescriber; and

(iii) one or more industry-recognized features designed to prevent the use of counterfeit prescription forms.

(b) Documentation by the pharmacy of verbal confirmation of a prescription not written on a tamper-resistant prescription form by the prescriber or the prescriber's agent satisfies the tamper-resistant requirement. Documentation of the verbal confirmation must include the date, time, and name of the individual who verified the validity of the prescription.

(c) A pharmacy must maintain documentation that a Medicaid member or authorized representative has received a prescription for a covered outpatient drug. The documentation must clearly identify the covered outpatient drug and the date it was received.

(i) The Division of [~~Medicaid and Health Financing (DMHF)~~]Integrated Healthcare shall waive the proof of delivery requirement for Non-Controlled Schedule 2 [~~(Non-CII)~~]prescriptions.

(ii) In accordance with Subsection R414-60-4(3)(c), the proof of delivery requirement remains for Controlled Schedule 2 (CII) medications that includes a signature or other documentation. The pharmacy shall document member receipt as stated in Subsection R414-60-4(3)(c).

(d) Claims for covered outpatient drugs not dispensed to a Medicaid member or the member's authorized representative within

14 days must be reversed and any payment from Medicaid must be returned.

R414-60-5. Limitations.

(1) Medicaid may place limitations on drugs in accordance with 42 U.S.C. 1396r-8 or in consultation with the Drug Utilization Review (DUR) Board. Medicaid includes these limitations in the Pharmacy Services Provider Manual and its attachments. These limitations are incorporated by reference in Section R414-1-5 and may include the following:

(a) quantity limits or cumulative limits for a drug or drug class for a specified period[~~ of time~~];

(b) therapeutic duplication limits may be placed on drugs within the same or similar therapeutic categories;

(c) step therapy, including documentation of therapeutic failure with one drug before another drug may be used; or

(d) prior authorization.

(2) A pharmacy may dispense a covered outpatient drug that requires prior authorization for up to a 72-hour supply without obtaining prior authorization during a medical emergency.

(3) Drugs listed as non-preferred on the Preferred Drug List (PDL) may require prior authorization as authorized by Section 26-18-2.4.

(4) Drugs may be restricted and are reimbursable only [~~when~~]if dispensed by an individual pharmacy or pharmacies.

(5) Medicaid does not cover drugs not eligible for [~~F~~]federal [~~M~~]medical [~~A~~]assistance [~~P~~]percentages funds.

(6) Medicaid does not cover outpatient drugs included in the Medicare Prescription Drug Benefit-Part D for full-benefit dual eligible [~~beneficiaries~~]members.

(7) Medicaid does not cover drugs provided to a member during an inpatient hospital stay, neither as an outpatient pharmacy benefit nor separately payable from the Medicaid payment for the inpatient hospital services.

(8) Medicaid covers prescription cough and cold preparations meeting the definition of a covered outpatient drug.

(9) Medicaid [~~will~~]pays for no more than a one-month supply of a covered outpatient drug [~~per~~]for each dispensing, except for the following:

(a) Medicaid may cover medications on the Utah Medicaid Three-Month Supply Medication List, attachment to the Pharmacy Services Provider Manual, for up to a three-month supply per dispensing;

(b) Medicaid may cover prenatal vitamins for a pregnant woman, multiple vitamins with or without fluoride for a child who is zero through five years of age, and fluoride supplements for up to a three-month supply per dispensing;

(c) Medicaid may cover contraceptives for up to a three-month supply per dispensing; and

(d) Medicaid may cover long-acting injectable antipsychotic drugs in accordance with Section R414-60-12 for up to a three-month supply per dispensing.

(10) Medicaid [~~will~~]pays for a prescription refill only [~~when~~]if 80% of the previous prescription has been exhausted, with the exception of controlled substances. Medicaid [~~will~~]pays for a prescription refill for controlled substances after 85% of the previous prescription has been exhausted.

(11) Medicaid does not cover the following drugs:

(a) drugs for weight loss;

(b) drugs to promote fertility;

(c) drugs for the treatment of sexual dysfunction;

(d) drugs for cosmetic purposes;

(e) vitamins; except for prenatal vitamins for a pregnant woman, vitamin drops for a child who is zero through five years of age, and fluoride supplements;

(f) over-the-counter drugs (OTC) not included on the Utah Medicaid PDL and Resources attachment to the Pharmacy Services Provider Manual;

(g) drugs for which the manufacturer requires, as a condition of sale, that associated tests and monitoring services are purchased exclusively from the manufacturer or its designee;

(h) drugs given by a hospital to a patient at discharge;

(i) breast milk, breast milk substitutes, baby food, or medical foods. Prescription metabolic products for congenital errors of metabolism are covered through the Durable Medical Equipment benefit; and

(j) drugs available only through single-source distribution programs, unless the distributor is enrolled with Medicaid as a pharmacy provider.

(12) Claims for opioids used for the treatment of non-cancer pain are subject to the following limitations or restrictions set forth by the Division of [~~Medicaid and Health Financing (DMHF)~~]Integrated Healthcare:

(a) initial fill limits;

(b) monthly limits;

(c) quantity limits;

(d) additional limits for a child or pregnant woman;

(e) morphine milligram equivalents (MME) and cumulative morphine equivalents daily (MED) limits;

(f) concurrent use of opioids with high-risk drugs as defined by DMHF; or

(g) concurrent use of opioid medications in members who also receive medication-assisted treatment (MAT) for opioid use disorder.

(13) Antipsychotic medications prescribed to a Medicaid member who is 19 years of age or younger are limited as follows:

(a) no use of multiple antipsychotic drugs;

(b) no off-label use;

(c) no use outside established age guidelines; and

(d) no doses higher than FDA recommendations.

(14) Exceptions may be granted as appropriate through the prior authorization process.

(15) Attention-deficit/hyperactivity disorder (ADHD) stimulant medications are subject to the following limitations or restrictions set forth by DMHF for Medicaid members:

(a) age limits;

(b) monthly limits;

(c) quantity limits;

(d) cross-class limitations for concurrent use of an amphetamine class with methylphenidate class in children less than 18 years of age; or

(e) the use of no more than two ADHD stimulants by a member of any age.

(16) Medicaid evaluates exceptions to ADHD stimulant policy for medical necessity on a case-by-case basis.

R414-60-6. Copayment Policy.

(1) Medicaid members are to pay any applicable copayment amount that complies with the requirements of 42 CFR 447.56, the Utah Medicaid State Plan, and Rule R414-1.

(2) A Medicaid provider may not refuse services to a Medicaid member based on a member's inability to pay a cost-sharing amount in accordance with 42 CFR 447.52.

R414-60-7. Reimbursement.

(1) A pharmacy may not submit a charge to Medicaid that exceeds the pharmacy's usual and customary charge.

(2) Covered[-] outpatient drugs are reimbursed as outlined in Attachment 4.19-B of the Utah Medicaid State Plan.

(3) A pharmacy that participates in the 340B program and uses medications obtained through the 340B program to bill Medicaid, must submit the [~~actual~~]acquisition cost of the medication on the claim.

(4) A pharmacy that participates in the federal supply schedule and uses medications obtained through the schedule to bill Medicaid, must submit the [~~actual~~]acquisition cost of the medication on the claim unless the claim is reimbursed as a bundled charge or all inclusive rate.

(5) A pharmacy that obtains and uses medications at a nominal price must submit the [~~actual~~]acquisition cost of the medication on the claim.

(6) Dispensing fees are outlined in Attachment 4.19-B of the Utah Medicaid State Plan. Medicaid [~~will~~]pays the lesser of the assigned dispensing fee or the submitted dispensing fee.

(7) Medicaid pays a pharmacy only one dispensing fee every 24 days for each covered outpatient drug[~~per pharmacy~~].

(8) Medicaid pays [~~A~~]a provider that immunizes a Medicaid member who is 19 years of age or older, [~~will be paid~~]for the cost of the immunization plus a dispensing fee. Medicaid pays the lesser of the allowed or submitted charges.

(9) A provider that immunizes a Medicaid member who is 18 years [~~old~~]of age or younger, [~~will~~]may only be eligible for a dispensing fee with no reimbursement for the immunization. Immunizations for Medicaid members who are 18 years [~~old~~]of age or younger must be obtained through the Vaccines for Children program.

(10) Diabetic supplies listed on the Utah Medicaid PDL are reimbursed at the lesser of the wholesale acquisition cost with no dispensing fee or the billed charges.

(11) Pursuant to Section 58-17b-805, a dispensing medical practitioner may prescribe and dispense medication directly to a patient [~~when~~]if providing outpatient cancer therapy. Details of reimbursement are found on the Medicaid website at http://health.utah.gov/medicaid/stplan/lookup/CoverageLookup.php .

R414-60-8. Mandatory Patient Counseling.

(1) Medicaid members, or their representatives, must receive counseling that fulfills the requirements of 42 U.S.C. 1396r-8 each time a covered outpatient medication is dispensed.

(2) Section R156-17b-610 does not require counseling if a Medicaid member or their representative refuses the offer of counseling.

(a) Only a pharmacist, pharmacy intern, or designated medical practitioner may provide oral counseling to a member or member's representative and answer questions concerning prescription drugs.

(3) The offer of counseling must be documented and producible upon request.

(4) Written information on a prescription order delivered to a member shall be in the form of patient information leaflets.

R414-60-9. New Drug Products.

A new drug product, including a new size or strength of an existing approved product, may be reviewed by the DUR Board to determine whether the drug should be subject to restrictions or limitations. New drugs may be withheld from coverage for no more than [~~twelve~~]12 weeks while restrictions or limitations are being evaluated.

R414-60-10. Over-the-Counter Drugs.

(1) Medicaid covers OTC drugs [~~when~~]if the drug is listed on the Utah Medicaid PDL and Resources attachment to the Pharmacy Services Provider Manual, incorporated by reference in Section R414-1-5.

(2) For a Medicaid member who resides in a nursing home, OTC drugs on the approved list are not a benefit through the outpatient pharmacy program. The nursing-home rate of reimbursement includes payment for OTC drugs.

R414-60-11. Compounds.

(1) A compounded drug consists of two or more ingredients. Medicaid may only reimburse pharmacies for the ingredient that meets the definition of a covered outpatient drug, except for those listed as non-covered drugs in Section R414-60-5.

(2) Compounded non-sterile prescriptions must be prepared by personnel and in settings as defined in the United States Pharmacopeia and National Formulary Chapter <795>.

(3) Compounded sterile prescriptions must be prepared by personnel and in settings that have certified they adhere to the United States Pharmacopeia/National Formulary chapter <797> standard, and test the final product for sterility, potency, and purity.

(4) Medicaid does not cover bulk powders for compounded prescriptions.

R414-60-12. Provider-Administered Long-Acting Injectable Antipsychotic Drugs and Drugs for the Treatment of Opioid Use Disorders.

(1) A provider-administered drug is an outpatient drug, other than a vaccine, that is administered by a health care provider in a physician's office or other outpatient clinical setting.

(2) Medicaid may only reimburse for a provider-administered drug if the drug qualifies as a covered outpatient drug in accordance with 42 U.S.C 1396r-8.

(3) Selected provider-administered or provider-observed drugs must be dispensed directly to the provider or provider's staff. These include the following:

(a) long-acting injectable antipsychotics; and

(b) long-acting injectable drugs for the treatment of opioid use disorders.

KEY: Medicaid
Date of Last Change: 2023[~~May 12, 2021~~]
Notice of Continuation: March 11, 2022
Authorizing, and Implemented or Interpreted Law: 26B-1-213; 26B-3-108[~~26-18-3; 26-1-5~~]

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal and Reenact		
Rule or Section Number:	**R590-190**	**Filing ID: 55510**

Agency Information

1. Department:	Insurance
Agency:	Administration

Room number:	Suite 2300
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO Box 146901
City, state and zip:	Salt Lake City, UT 84114-6901

Contact persons:

Name:	**Phone:**	**Email:**
Steve Gooch	801-957-9322	sgooch@utah.gov

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

General Information

2. Rule or section catchline:

R590-190. Unfair Property, Liability and Title Claims Settlement Practices Rule

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, and update the Severability (the new R590-190-14) 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
Total Fiscal Cost	**$0**	**$0**	**$0**

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
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

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

The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.

Citation Information

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

Section 31A-2-201	Section 31A-21-312	Section 31A-26-301
Section 31A-26-303		

Public Notice Information

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

A) Comments will be accepted until:	08/14/2023

9. This rule change MAY become effective on:	08/21/2023

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

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	**Date:**	06/29/2023

R590. Insurance, Administration.

R590-190. Unfair Property, [~~Liability~~]Casualty, and Title Claims Settlement Practices Rule.

[~~R590-190-1. Authority.~~

~~This rule is promulgated pursuant to Subsections 31A-2-201(1) and 31A-2-201(3)(a) in which the commissioner is empowered to administer and enforce this title and to make rules to implement the provisions of this title. Further authority to provide for timely payment of claims is provided by Subsection 31A-26-301(1). Matters relating to proof and notice of loss are promulgated pursuant to Section 31A-26-301 and Subsection 31A-21-312(5). Authority to promulgate rules defining unfair claims settlement practices or acts is provided in Subsection 31A-26-303(4). The authority to require a timely response to the Insurance Department is provided in Section 31A-2-202(4).~~

~~R590-190-2. Purpose.~~

~~This rule sets forth minimum standards for the investigation and disposition of property, liability, and title claims arising under contracts or certificates issued to residents of the State of Utah. It is not intended to cover bail bonds. These standards include fair and rapid settlement of claims, protection for claimants under insurance policies from unfair claims adjustment practices and promotion of professional competence of those engaged in claim adjusting. This rule defines procedures and practices which constitute unfair claim practices. This rule is regulatory in nature and is not intended to create any private right of action.~~

~~R590-190-3. Definitions.~~

~~For the purpose of this rule the commissioner adopts the definitions as set forth in 31A-1-301, and the following:~~

~~(1) "Claim file" means any record either in its original form or as recorded by any process which can accurately and reliably reproduce the original material regarding the claim, its investigation, adjustment and settlement.~~

~~(2) "Claimant" means either a first party claimant, a third party claimant, or both and includes such claimant's designated legal representative and includes a member of the claimant's immediate family designated by the claimant.~~

~~(3) "Claim representative" means any individual, corporation, association, organization, partnership, or other legal entity authorized to represent an insurer with respect to a claim, whether or not licensed within the State of Utah to do so.~~

~~(4) "Days" means calendar days.~~

~~(5) "Documentation" includes, but is not limited to, any pertinent communications, transactions, notes, work papers, claim forms, bills, and explanation of benefits forms relative to the claim.~~

~~(6) "First party claimant" means an individual, corporation, association, partnership or other legal entity asserting a right to a benefit or a payment under an insurance policy or insurance contract arising out of the occurrence of the contingency or loss covered by such policy or contract and includes such claimant's designated legal representative and includes a member of the claimant's immediate family designated by the claimant.~~

~~(7) "General business practice" means a pattern of conduct.~~

~~(8) "Investigation" means all activities of an insurer directly or indirectly related to the determination of liabilities under coverages afforded by an insurance policy or insurance contract.~~

~~(9) "Notice of claim or loss" means any notification, whether in writing or other means acceptable under the terms of an insurance policy or insurance contract, to an insurer or its agent, by a claimant, which reasonably apprizes the insurer of the facts pertinent to a claim.~~

(10) "Proof of loss" shall mean reasonable documentation by the insured in accordance with policy provisions and insurer practices as to the facts of the loss and the amount of the claim.

(11) "Specific disclosure" shall mean notice to the insured by means of policy provisions in boldface type or a separate written notice mailed or delivered to the insured.

(12) "Third party claimant" means any person asserting a claim against any person under a policy or certificate of an insurer.

R590-190-4. File and Record Documentation.

Each insurer's claim files for policies or certificates are subject to examination by the commissioner of insurance or by the commissioner's duly appointed designees. To aid in such examination:

(1) the insurer shall maintain claim data that is accessible and retrievable for examination; and

(2) detailed documentation shall be contained in each claim file to permit reconstruction of the insurer's activities relative to the claim.

R590-190-5. Misrepresentation of Policy Provisions.

(1) The insurer and its representatives shall fully disclose to first party claimants all pertinent benefits, coverages or other provisions of an insurance policy or insurance contract under which a claim is presented, including loss of use and household services.

(2) The insurer is prohibited from denying a claim based upon a first party claimant's failure to exhibit the property unless there is documentation of a breach of the policy provision in the claim file.

R590-190-6. Failure to Acknowledge Pertinent Communications.

Within 15 days every insurer shall:

(1) upon receiving notification of a claim, acknowledge the receipt of such notice unless payment is made within such period of time, or unless the insurer has a reason acceptable to the Insurance Department as to why such acknowledgment cannot be made within the time specified. Notice given to an agent of an insurer is notice to the insurer;

(2) provide a substantive response to a claimant whenever a response has been requested; and

(3) upon receiving notification of a claim, provide all necessary claim forms, instructions, and reasonable assistance so that first party claimants can comply with the policy conditions and the insurer's reasonable requirements.

R590-190-7. Notice of Claim or Loss.

(1) Notice of Claim or Loss to an insurer, if required, shall be considered timely if made according to the terms of the policy, subject to the definitions and provisions of this rule, and the provisions of Section 31A-21-312.

(2) Notice of Claim or Loss may be given by an insured to any appointed agent, authorized adjuster, or other authorized claim representative of an insurer unless the insurer clearly directs otherwise by means of Specific Disclosure as defined herein.

(3) The general practice of the insurer when accepting a notice of loss or notice of claim shall be consistent for all policyholders in accordance with the terms of the policy.

R590-190-8. Proof of Loss.

Proof of loss to an insurer, if required, shall be considered timely if made according to the terms of the policy, subject to the definitions and provisions of this rule and the requirements of Section 31A-21-312.

R590-190-9. Unfair Methods, Deceptive Acts and Practices Defined.

The commissioner, pursuant to Section 31A-26-303(4), hereby finds the following acts, or the failure to perform required acts, to be misleading, deceptive, unfairly discriminatory or overreaching in the settlement of claims:

(1) denying or threatening the denial of the payment of claims or rescinding, canceling or threatening the recission or cancellation of coverage under a policy for any reason which is not clearly described in the policy as a reason for such denial, cancellation or rescission;

(2) failing to provide the insured or beneficiary with a written explanation of the evidence of any investigation or file materials giving rise to the denial of a claim based on misrepresentation or fraud on an insurance application, when such misrepresentation is the basis for the denial;

(3) compensation by an insurer of its employees, agents or contractors of any amounts which are based on savings to the insurer as a result of denying the payment of claims;

(4) failing to deliver a copy of the insurer's guidelines, which could include the department's statutes, rules and bulletins, for prompt investigation of claims to the Insurance Department when requested to do so;

(5) refusing to pay claims without conducting a reasonable investigation;

(6) offering first party claimants substantially less than the reasonable value of the claim. Such value may be established by one or more independent sources;

(7) making claim payments to insureds or beneficiaries not accompanied by a statement or explanation of benefits setting forth the coverage under which the payments are being made and how the payment amount was calculated;

(8) failing to pay claims within 30 days of properly executed proof of loss when liability is reasonably clear under one coverage in order to influence settlements under other portions of the insurance policy coverage or under other policies of insurance;

(9) refusing payment of a claim solely on the basis of an insured's request to do so unless:

(a) the insured claims sovereign, eleemosynary, diplomatic, military service, or other immunity from suit or liability with respect to such claim; or

(b) the insured is granted the right under the policy of insurance to consent to settlement of claims.

(10) advising a claimant not to obtain the services of an attorney or suggesting the claimant will receive less money if an attorney is used to pursue or advise on the merits of a claim;

(11) misleading a claimant as to the applicable statute of limitations;

(12) requiring an insured to sign a release that extends beyond the occurrence or cause of action that gave rise to the claims payment;

(13) deducting from a loss or claim payment made under one policy those premiums owed by the insured on another policy, unless the insured consents;

(14) failing to settle a first party claim on the basis that responsibility for payment of the claim should be assumed by others, except as may otherwise be provided by policy provisions;

(15) issuing checks or drafts in partial settlement of a loss or a claim under a specified coverage when such check or draft contains language which purports to release the insurer or its insured from total liability;

(16) refusing to provide a written basis for the denial of a claim upon demand of the insured;

(17) denying a claim for medical treatment after preauthorization has been given, except in cases where the insurer obtains and provides to the claimant documentation of the pre-existence of the condition for which the preauthorization has been given or if the claimant is not eligible for coverage;

(18) refusing to pay reasonably incurred expenses to an insured when such expenses resulted from a delay, as prohibited by these rules, in claims settlement or claims payment;

(19) when an automobile insurer represents both a tort feasor and a claimant:

(a) failing to advise a claimant under any coverage that the same insurance company represents both the tort feasor and the claimant as soon as such information becomes known to the insurer; and

(b) allocating medical payments to the tort feasor's liability coverage before exhausting a claimant's personal injury protection coverage.

(20) failing to pay interest at the legal rate, as provided in Title 15, Utah Code, upon amounts that are overdue under these rules. This does not apply to insurers who fail to pay Personal Injury Protection expenses when due. These expenses shall bear interest as provided in 31A-22-309(5)(c).

R590-190-10. Minimum Standards for Prompt, Fair and Equitable Settlements.

(1) The insurer shall provide to the claimant a statement of the time and manner in which any claim must be made and the type of proof of loss required by the insurer.

(2) Within 30 days after receipt by the insurer of a properly executed proof of loss, the insurer shall complete its investigation of the claim and the first party claimant shall be advised of the acceptance or denial of the claim by the insurer unless the investigation cannot be reasonably completed within that time. If the insurer needs more time to determine whether a first party claim should be accepted or denied, it shall so notify the first party claimant within 30 days after receipt of the proofs of loss, giving the reasons more time is needed. If the investigation remains incomplete, the insurer shall, within 45 days after sending the initial notification and within every 45 days thereafter, send to the first party claimant a letter setting forth the reasons additional time is needed for the investigation, unless the first party claimant is represented by legal counsel or public adjuster. Any basis for the denial of a claim shall be noted in the insurers claim file and must be communicated promptly and in writing to the first party claimant. Insurers are prohibited from denying a claim on the grounds of a specific provision, condition, or exclusion unless reference to such provision, condition or exclusion is included in the denial.

(3) Unless otherwise provided by law, an insurer shall promptly pay every valid insurance claim. A claim shall be overdue if not paid within 30 days after the insurer is furnished written proof of the fact of a covered loss and of the amount of the loss. Payment shall mean actual delivery or mailing of the amount owed. If such written proof is not furnished to the insurer as to the entire claim, any partial amount supported by written proof or investigation is overdue if not paid within 30 days. Payments are not deemed overdue when the insurer has reasonable evidence to establish that the insurer is not responsible for the payment, notwithstanding that written proof has been furnished to the insurer.

(4) If negotiations are continuing for settlement of a claim with a claimant, who is not represented by legal counsel or public adjuster, notice of expiration of the statute of limitation or contract time limit shall be given to the claimant at least 60 days before the date on which such time limit may expire.

(5) Insurers are prohibited from making statements which indicate that the rights of a third party claimant may be impaired if a form or release is not completed within a given period of time unless the statement is given for the purpose of notifying the third party claimant of the provision of a statute of limitations.

(6) Upon receipt of an inquiry from the insurance department regarding a claim, every licensee shall furnish a substantive response to the insurance department within the time period specified in the inquiry.

R590-190-11. Standards for Prompt, Fair and Equitable Settlements Applicable to Automobile Insurance.

(1) When the insurance policy provides for the adjustments and settlement of automobile total losses for first party claimants on the basis of actual cash value or replacement with another of like kind and quality, one of the following methods must apply:

(a) the insurer may elect to offer a replacement automobile which is a specific comparable automobile available to the insured, with all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the automobile paid, at no cost other than any deductible provided in the policy. The offer and any rejection thereof must be documented in the claim file;

(b) the insurer may elect a cash settlement based upon the actual cost, less any deductible provided in the policy, to purchase a comparable automobile including all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of a comparable automobile. Such cost may be determined by using:

(i) the cost of two or more comparable automobiles in the local market area when a comparable automobile is available or was available within the last 90 days to consumers in the local market area;

(ii) the cost of two or more comparable automobiles in areas proximate to the local market area, including the closest major metropolitan areas within or without the state, that are available or were available within the last 90 days to consumers when comparable automobiles are not available in the local market area pursuant to Subsection R590-190-11.(1)(b)(i);

(iii) one of two or more quotations obtained by the insurer from two or more qualified dealers located within the local market area when a comparable automobile is not available in the local market area; or

(iv) any source of determining statistically valid fair market values that meet all of the following criteria:

(A) the source shall give primary consideration to the values of vehicles in the local market area and may consider data on vehicles outside the area;

(B) the source's database shall produce values for at least 85% of the makes and models for the last 15 model years, taking into account the values of all major options for such vehicles; and

(C) the source shall produce fair market values based on current data available from the area surrounding the location where the insured vehicle was principally garaged or a necessary expansion of parameters, such as time and area, to assure statistical validity.

(v) if the insurer is notified within 30 days of the receipt of the claim draft that the first party claimant cannot purchase a

~~comparable vehicle for such market value, the company shall reopen its claim file and the following procedure(s) shall apply:~~

~~(A) the company may locate a comparable vehicle by the same manufacturer, same year, similar body style and similar options and price range for the insured for the market value determined by the company at the time of settlement. Any such vehicle must be available through licensed dealers or private sellers;~~

~~(B) the company shall either pay the difference between market value before applicable deductions and the cost of the comparable vehicle of like kind and quality which the insured has located, or negotiate and effect the purchase of this vehicle for the insured;~~

~~(C) the company may elect to offer a replacement in accordance with the provisions set forth in Subsection R590-190-11.(1)(a); or~~

~~(D) the company may conclude the loss settlement as provided for under the appraisal section of the insurance contract in force at the time of the loss. The company is not required to take action under this subsection if its documentation to the first party claimant, at the time of settlement, included written notification of the availability and location of a specified and comparable vehicle of the same manufacturer, same year, similar body style and similar options in as good or better condition as the total loss vehicle which could be purchased for the market value determined by the company before applicable deductions.~~

~~(c) when a first party claimant automobile total loss is settled on a basis which deviates from the methods described in Subsections R590-190-11.(1)(a) and (b), the deviation must be supported by documentation giving particulars of the automobile condition. Any deductions from such cost, including deductions for salvage, must be measurable, itemized and specified as to dollar amount and shall be appropriate in amount. The basis for such settlement shall be fully explained to the first party claimant.~~

~~(2) Total loss settlements with a third party claimant shall be on the basis of the market value or actual cost of a comparable automobile at the time of loss. Settlement procedures shall be in accordance with Subsection R590-190-11.(1)(b) and (c), except (b)(v) shall not apply.~~

~~(3) Where liability and damages are reasonably clear, insurers are prohibited from recommending that third party claimants make a claim under their own policies solely to avoid paying claims under such insurer's insurance policy or insurance contract.~~

~~(4) Insurers are prohibited from requiring a claimant to travel an unreasonable distance to inspect a replacement automobile, to obtain a repair estimate or to have the automobile repaired at a specific repair shop.~~

~~(5) Insurers shall include the first party claimant's deductible, if any, in subrogation demands initiated by the insurer. Subrogation recoveries may be shared on a proportionate basis with the first party claimant when an agreement is reached for less than the full amount of the loss, unless the deductible amount has been otherwise recovered. The recovery shall be applied first to reimburse the first party claimant for the amount or share of the deductible when the full amount or share of the deductible has been recovered. No deduction for expenses can be made from the deductible recovery unless an outside attorney is retained to collect such recovery. The deduction may then be for only a pro rata share of the allocated loss adjustment expense. If subrogation is initiated but discontinued, the insured shall be advised.~~

~~(6) If an insurer prepares or approves an estimate of the cost of automobile repairs, such estimate shall be in an amount for which it may be reasonably expected the damage can be satisfactorily repaired. If the insurer prepares an estimate, it shall give a copy of the estimate to the claimant and may furnish to the claimant the names of one or more conveniently located repair shops.~~

~~(7) When the amount claimed is reduced because of betterment or depreciation, all information for such reduction shall be contained in the claim file. Such deductions shall be itemized and specified as to dollar amount and shall be appropriate for the amount of deductions. The insurer shall provide a written explanation of these deductions to the claimant upon request.~~

~~(8) When the insurer elects to repair and designates a specific repair shop for automobile repairs, the insurer shall cause the damaged automobile to be restored to its condition prior to the loss at no additional cost to the claimant other than as stated in the policy and within a reasonable period of time.~~

~~(9) Where coverage exists, loss of use payment shall be made to a claimant for the reasonably incurred cost of transportation, or for the reasonably incurred rental cost of a substitute vehicle, including collision damage waiver, unless the claimant has physical damage coverage available, during the period the automobile is necessarily withdrawn from service to obtain parts or effect repair, or, in the event the automobile is a total loss and the claim has been timely made, during the period from the date of loss until a reasonable settlement offer has been made by the insurer. The insurer is prohibited from refusing to pay for loss of use for the period that the insurer is examining the claim or making other determinations as to the payability of the loss, unless such delay reveals that the insurer is not liable to pay the claim. Loss of use payments shall be an amount in addition to the payment for the value of the automobile.~~

~~(10) Subject to Subsections R590-190-11.(1) and (2), an insurer shall fairly, equitably and in good faith attempt to compensate a claimant for all losses incurred under collision or comprehensive coverages. Such compensation shall be based at least, but not exclusively, upon the following standards:~~

~~(a) an offer of settlement may not be made exclusively on the basis of useful life of the part or vehicle damaged;~~

~~(b) an estimate of the amount of compensation for the claimant shall include the actual wear and tear, or lack thereof, of the damaged part or vehicle;~~

~~(c) actual cash value, which shall take into account the cost of replacement of the vehicle and/or the part for which compensation is claimed;~~

~~(d) an actual estimate of the true useful life remaining in the part or vehicle shall be taken into account in establishing the amount of compensation of a claim; and~~

~~(e) actual cash value, which shall include taxes and other fees which shall be incurred by a claimant in replacing the part or vehicle or in compensating the claimant for the loss incurred.~~

~~(11) Insurers are prohibited from demanding reimbursement of personal injury protection payments from a first-party insured of payments received by that party from a settlement or judgement against a third party, except as provided by law.~~

~~(12) The insurer shall provide reasonable written notice to a claimant prior to termination of payment for automobile storage charges and documentation of the denial as required by Section R590-190-4. Such insurer shall provide reasonable time for the claimant to remove the vehicle from storage prior to the termination of payment.~~

~~R590-190-12. Unfair Claims Settlement Practices Applicable to Automobile Insurance.~~

~~The commissioner, pursuant to Section 31A-26-303(4), hereby finds the following acts, or the failure to perform required~~

~~acts, to be misleading, deceptive, unfairly discriminatory or overreaching in the settlement of claims:~~

~~(1) using as a basis for cash settlement with a claimant an amount which is less than the amount which the insurer would be charged if repairs were made, unless such amount is agreed to by the claimant or provided for by the insurance policy;~~

~~(2) refusing to settle a claim based solely upon the issuance of, or failure to, issue a traffic citation by a police agency;~~

~~(3) failing to disclose all coverages for which an application for benefits is required by the insurer;~~

~~(4) failing in good faith to disclose all coverages, including loss of use, household services, and any other coverages available to the claimant;~~

~~(5) requiring a claimant to use only the insurer's claim service in order to perfect a claim;~~

~~(6) failing to furnish the claimant, when requested, with the name and address of the salvage dealer who has provided a salvage quote for the amount deducted by the insurer in a total loss settlement;~~

~~(7) refusing to disclose policy limits when requested to do so by a claimant or claimant's attorney;~~

~~(8) using a release on the back of a check or draft which requires a claimant to release the company from obligation on further claims in order to process a current claim when the company knows or reasonably should know that there will be future liability on the part of the insurer;~~

~~(9) refusing to use a separate release of a claim document rather than one on the back of a check or draft when requested to do so by a claimant;~~

~~(10) intentionally offering less money to a first party claimant than the claim is reasonably worth, a practice referred to as "low balling;"~~

~~(11) refusing to offer to pay claims based upon the Doctrine of Comparative Negligence without a reasonable basis for doing so; and~~

~~(12) imputing the negligence of a permissive user of a vehicle to the owner of the vehicle in a bailment situation.~~

~~R590-190-13. Standards for Prompt, Fair and Equitable Settlements Applicable to Fire and Extended Coverage Type Policies with Replacement Cost Coverage.~~

~~(1) Replacement Cost Value:~~

~~When the policy provides for the adjustment and settlement of first party losses based on replacement cost, the following shall apply:~~

~~(a) when a loss requires repair or replacement of an item or part, any consequential physical damage incurred in making such repair or replacements not otherwise excluded by the policy, shall be included in the loss. The insured is only responsible for the applicable deductible; and~~

~~(b) when a loss requires replacement or repair of items and the repaired or replaced items do not match in color, texture, or size, the insurer shall repair or replace items so as to conform to a reasonably uniform appearance. This applies to interior and exterior losses. The insured is only responsible for the applicable deductible.~~

~~(2) Actual Cash Value:~~

~~(a) When the insurance policy provides for the adjustment and settlement of losses on an actual cash value basis on residential fire and extended coverage, the insurer shall determine actual cash value as the replacement cost of property at the time of the loss less depreciation, if any. Upon the insured's request, the insurer shall provide a copy of relevant documentation from the claim file detailing any and all deductions for depreciation.~~

~~(b) In cases in which the insured's interest is limited because the property has nominal or no economic value, or a value disproportionate to replacement cost less depreciation, the determination of actual cash value, as set forth above, is not required. In such cases, the insurer shall provide, upon the insured's request, a written explanation of the basis for limiting the amount of recovery along with the amount payable under the policy.~~

~~R590-190-14. Severability.~~

~~If any provision or clause of this rule or its application to any person or situation is held 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.~~]

R590-190-1. Authority.

This rule is promulgated by the commissioner pursuant to Sections 31A-2-201, 31A-21-312, 31A-26-301, and 31A-26-303.

R590-190-2. Purpose and Scope.

(1) The purpose of this rule is to:

(a) set standards for the investigation and disposition of property, casualty, and title claims; and

(b) identify an unfair claim practice.

(2) This rule applies to:

(a) a property and casualty insurer;

(b) a title insurer; and

(c) an authorized agent.

R590-190-3. Definitions.

Terms used in this rule are defined in Section 31A-1-301. Additional terms are defined as follows:

(1) "Authorized agent" means an individual, corporation, association, organization, partnership, or other legal entity authorized to represent an insurer with respect to a claim.

(2) "Claim file" means a record either in its original form or as recorded by a process that can accurately and reliably reproducer the original material regarding a claim, its investigation, adjustment, and settlement.

(3)(a) "Claimant" means a first party claimant, a third party claimant, or both.

(b) "Claimant" includes a claimant's designated legal representative and an immediate family member.

(4) "Day" means calendar day.

(5) "Documentation" means a physical or an electronic record related to a claim.

(6)(a) "First party claimant" means a person asserting a right to a benefit under a policy to which the person is a party.

(b) "First party claimant" includes a person's designated legal representative and an immediate family member.

(7) "General business practice" means a pattern of conduct in a business.

(8) "Investigation" means an activity by or on behalf of an insurer related to determining a claim under a policy.

(9) "Notice of loss" means a claimant's notice that reasonably informs an insurer of facts related to a claim.

(10) "Proof of loss" means an insured's reasonable documentation in support of a claim.

(11) "Third party claimant" means a person asserting a claim against an insured.

R590-190-4. File and Record Documentation.

(1) An insurer's claim file is subject to examination by the commissioner.

(2) To aid in an examination, an insurer shall:

(a) maintain claim data that is accessible and retrievable; and

(b) maintain detailed documentation in each claim file permitting reconstruction of the insurer's activities related to the claim.

R590-190-5. Misrepresentation of Policy Provisions.

(1) An insurer and its representatives shall fully disclose to a first party claimant any pertinent benefit, coverage, or other provision of a policy under which a claim is presented.

(2) An insurer is prohibited from denying a claim based on a first party claimant's failure to make the property available for inspection unless there is documentation of a breach of a policy provision in the claim file.

R590-190-6. Failure to Acknowledge Communication.

(1) An insurer shall acknowledge receiving a notice of loss within 15 days of receipt unless:

(a) payment is made within 15 days of a notice of loss; or

(b) the insurer reasonably explains the failure to acknowledge receipt.

(2) Notice given to an agent of an insurer is notice to the insurer.

(3) Within 15 days, an insurer shall provide a substantive response to a claimant if a response has been requested.

(4) Upon receiving a notice of loss, an insurer shall, within 15 days, provide any necessary claim forms, instructions, and reasonable assistance so that a first party claimant can comply with the policy.

R590-190-7. Notice of Loss.

(1) If a notice of loss is required by an insurer, it is timely if made according to the terms of the policy, this rule, and Section 31A-21-312.

(2) A notice of loss may be given by an insured to an authorized agent, authorized adjuster, or other agent of an insurer unless the insurer directs otherwise pursuant to a specific disclosure.

(3) The general business practice of an insurer when accepting a notice of loss shall be consistent for all policyholders.

R590-190-8. Proof of Loss.

If a proof of loss is required by an insurer, it is timely if made according to the terms of the policy, this rule, and Section 31A-21-312.

R590-190-9. Unfair Claim Settlement Practices.

The commissioner finds that the following acts or general business practices are unfair claim settlement practices and are misleading, deceptive, unfairly discriminatory, overreaching, or an unreasonable restraint on competition in settling a claim:

(1) denying or threatening to deny a claim, or rescinding, canceling, or threatening to rescind or cancel coverage under a policy for a reason that is not clearly described in a policy as a reason for denial, cancellation, or rescission;

(2) failing to provide an insured or a beneficiary a written explanation of the evidence of an investigation or the claim file materials supporting a denial of a claim based on misrepresentation or fraud on an insurance application, if misrepresentation or fraud is the basis for the denial;

(3) compensating an employee, producer, or contractor an amount based on savings to the insurer due to denying payment of a claim;

(4) failing to deliver to the department a copy of an insurer's guidelines during an investigation of a claim, if requested;

(5) refusing to pay a claim without conducting a reasonable investigation;

(6) offering a first party claimant substantially less than a claim's reasonable value as established by an independent source;

(7) making a claim payment to an insured or a beneficiary without a statement or explanation of benefits that describes the coverage under which a payment is made and how a payment amount is calculated;

(8) failing to pay a first party claim within 30 days of receiving a proof of loss if liability is reasonably clear under one coverage to influence a settlement under another portion of the insurance policy or under another insurance policy;

(9) refusing to pay a claim solely based on an insured's request unless:

(a) the insured claims sovereign, eleemosynary, diplomatic, military service, or other immunity from suit or liability with respect to the claim; or

(b) the insured is granted the right under the policy to consent to settlement of a claim;

(10) advising a claimant not to obtain the services of an attorney or suggesting a claimant will receive less money if an attorney is used to pursue a claim or advise on the merits of a claim;

(11) misleading a claimant about applicable statutes of limitation;

(12) requiring an insured to sign a release that extends beyond the occurrence or cause of action that gave rise to a claim payment;

(13) deducting from a loss or claim payment made under one policy the premiums owed by the insured on another policy, unless the insured consents;

(14) failing to settle a first party claim on the basis that responsibility for payment of the claim should be assumed by others, except as provided by a policy provision;

(15) issuing a check or a draft in partial settlement of a loss or a claim under a specified coverage if the check or draft contains language that releases an insurer from total liability;

(16) refusing to provide a written basis for the denial of a claim upon demand of an insured;

(17) denying a claim for medical treatment after preauthorization is given, except in a case where an insurer obtains and provides to a claimant documentation of the pre-existing condition for which preauthorization was given or if a claimant is not eligible for coverage;

(18) refusing to pay a reasonably incurred expense to an insured if the expense resulted from a delay, prohibited by this rule, in a claim settlement or a claim payment;

(19) if an automobile insurer represents both a tort feasor and a claimant:

(a) failing to advise a claimant under any coverage that the same insurance company represents both the tort feasor and the claimant as soon as such information becomes known to the insurer; and

(b) allocating medical payments to the tort feasor's liability coverage before exhausting a claimant's personal injury protection coverage;

(20) except for a failure to pay personal injury protection expenses when due, failing to pay interest at the legal rate, as provided in Title 15, Contracts and Obligations in General, on first party and third party claim amounts that are overdue under this rule; and

(21) failing to deliver or mail the amount owed on a first party or third party claim within 30 days after the insurer receives written proof of a covered loss and its amount, except:

(a) if the insurer does not receive written proof of the entire loss, the insurer shall deliver or mail a partial amount supported by written proof or investigation within 30 days; and

(b) a payment is not overdue if the insurer has reasonable evidence to dispute its responsibility for payment.

R590-190-10. Minimum Standards for Prompt, Fair, and Equitable Settlement.

(1) An insurer shall provide to a claimant a statement describing the time and way a claim shall be made and the type of proof of loss required by the insurer.

(2)(a) Within 30 days after receiving a complete proof of loss, an insurer shall complete its investigation of the claim and shall notify the first party claimant of its acceptance or denial of the claim unless the investigation cannot reasonably be completed within that time.

(b) If the insurer needs more time to determine whether the first party claim should be accepted or denied, it shall notify the first party claimant within 30 days after receipt of the proof of loss, giving the reasons more time is needed.

(c) If the investigation remains incomplete, the insurer shall, within 45 days after sending the initial notification and within every 45 days thereafter, send to the first party claimant a letter setting forth the reasons additional time is needed for the investigation, unless the first party claimant is represented by legal counsel or a public adjuster.

(d) Any basis for the denial of a claim shall be noted in the insurer's claim file and promptly communicated, in writing, to the first party claimant.

(e) An insurer is prohibited from denying a claim on the grounds of a specific provision, condition, or exclusion unless reference to the provision, condition, or exclusion is included in the denial.

(3)(a) If negotiations continue for settlement of a claim with a first party claimant or a third party claimant who is not represented by legal counsel or a public adjuster, an insurer shall notify the claimant of the date on which the applicable statute of limitation or other time limit expires.

(b) The notice shall be given at least 60 days before the expiration date.

(4) An insurer is prohibited from making a statement that the rights of a third party claimant may be impaired if a form or release is not completed within a given period, unless the statement is given to notify a third party claimant of a statute of limitation.

R590-190-11. Standards for Prompt, Fair, and Equitable Settlement for Automobile Insurance.

(1) If an automobile insurance policy provides for an adjustment and settlement of a total loss for a first party claimant based on actual cash value or replacement with another automobile of like kind and quality, one of the methods in this Subsection (1) shall apply.

(a)(i) An insurer may offer a replacement automobile that is comparable to the insured's automobile, with all applicable taxes, license fees, and transfer of ownership fees paid, at no cost, less any deductible provided in the policy; and

(ii) an offer and any rejection shall be documented in the claim file.

(b)(i) An insurer may offer a cash settlement based on the actual cost, less any deductible provided in the policy, to purchase a comparable automobile, including all applicable taxes, license fees, and transfer of ownership fees of a comparable automobile for a cost determined in this Subsection (1)(b)(i).

(A) The cost of at least two comparable automobiles in the local market area, if an automobile was available within the last 90 days to consumers in the local market area.

(B) The cost of at least two comparable automobiles in areas proximate to the local market area, including the closest major metropolitan area in or out of the state, that were available within the last 90 days to consumers, if comparable automobiles are not available in the local market area.

(C) At least two quotes from at least two qualified dealers located within the local market area, if a comparable automobile is not available in the local market area.

(D) Any source to determine a statistically valid fair market value that meets the following criteria:

(I) the source gives primary consideration to the value of vehicles in the local market area and may consider data on vehicles outside the area;

(II) the source produces value for at least 85% of the makes and models for the last 15 model years, taking into account the value of all major options for such vehicles; and

(III) the source produces fair market value based on current data available from the area surrounding the location where the insured vehicle was principally garaged or a necessary expansion of the parameters, such as time and area, to assure statistical validity.

(ii) An insurer shall reopen its claim file and comply with the following procedures upon notice that a first party claimant cannot purchase a comparable vehicle at market value within 30 days of receiving a cash settlement payment under this Subsection (1)(b); and

(A) locate a comparable vehicle by the same manufacturer, same year, similar body style, and similar options and price range for an insured for the market value determined by the insurer at the time of settlement available through a licensed dealer or private seller;

(B) either:

(I) pay the difference between market value before applicable deductions and the cost of the comparable vehicle of like kind and quality that the insured has located; or

(II) negotiate and effectuate the purchase of the vehicle for the insured;

(C) elect to offer a replacement under Subsection (1)(a); or

(D) conclude the loss settlement under the appraisal section of the policy in force at the time of the loss.

(iii) An insurer is not required to take action under Subsection (1)(b)(ii) if its documentation to the first party claimant, at the time of settlement, included written notification of the availability and location of a specified and comparable vehicle of the same manufacturer, same year, similar body style, and similar options in as good or better condition as the total loss vehicle that could be purchased for the market value determined by the insurer before applicable deductions.

(c) If a first party claimant automobile total loss is settled on a basis that deviates from the methods described in Subsection (1)(a) or (1)(b), the deviation shall be supported by documentation giving particulars of the automobile condition.

(i) Any deduction from the cost, including a deduction for salvage, shall be measurable, itemized, and specified as to dollar amount and shall be reasonable in amount.

(ii) The basis for the settlement shall be fully explained to the first party claimant.

(2)(a) A total loss settlement with a third party claimant shall be based on the market value or actual cost of a comparable automobile at the time of loss.

(b) Except for Subsection (1)(b)(ii), settlement procedures shall comply with Subsection (1)(b).

(3) Where liability and damages are reasonably clear, an insurer is prohibited from recommending that a third party claimant make a claim under the third party claimant's own policy solely to avoid paying a claim under the insurer's policy.

(4) An insurer is prohibited from requiring a claimant to travel an unreasonable distance to inspect a replacement automobile, to obtain a repair estimate, or to have an automobile repaired at a specific repair shop.

(5)(a) An insurer shall include a first party claimant's deductible, if any, in a subrogation demand initiated by an insurer.

(b) A subrogation recovery may be shared on a proportionate basis with a first party claimant if an agreement is reached for less than the full amount of the loss, unless the deductible amount has been otherwise recovered.

(c) A subrogation recovery shall be applied first to reimburse a first party claimant for the amount or share of the deductible if the full amount or share of the deductible has been recovered.

(d)(i) A deduction for expenses may not be made from the deductible recovery unless an outside attorney is retained to collect the recovery.

(ii) If taken, a deduction shall be a pro rata share of the allocated loss adjustment expense.

(e) If subrogation is initiated but discontinued, the insured shall be advised.

(6)(a) If an insurer prepares or approves an estimate for automobile repairs, the estimated cost shall reasonably be expected to repair the damage to the automobile.

(b) If an insurer prepares an estimate, it shall give a copy of the estimate to the claimant and may provide the claimant the names of one or more conveniently located repair shops.

(7) If the amount claimed is reduced due to betterment or depreciation, all information for the reduction shall be contained in the claim file.

(a) The deduction shall be itemized with specificity as to dollar amount and shall be reasonable.

(b) The insurer shall provide a written explanation of the deductions to the claimant upon request.

(8) If an insurer elects to repair an automobile and designates a specific repair shop for the repairs, the insurer shall cause the damaged automobile to be restored to its condition before the loss at no additional cost to the claimant other than as stated in the policy and within a reasonable period.

(9)(a) If coverage exists, payment shall be made to a claimant for:

(i) reasonably incurred cost of transportation; or

(ii)(A) reasonably incurred rental cost of a substitute vehicle; or

(B) collision damage waiver unless the claimant has physical damage coverage available.

(b) A payment under Subsection (9)(a) shall be made for:

(i) the period the automobile is necessarily withdrawn from service to obtain parts or effect repair; or

(ii) if the automobile is a total loss and the claim has been timely made, the period from the date of loss until a reasonable settlement offer has been made by the insurer.

(c) An insurer may not refuse to pay for loss of use for the period that an insurer is examining the claim or making other determinations as to the validity of the loss, unless the delay reveals that an insurer is not liable to pay the claim.

(d) A loss of use payment shall be an amount in addition to a payment for the value of an automobile.

(10) An insurer shall fairly, equitably, and in good faith attempt to compensate a first party claimant for all losses covered by the policy based on the following standards:

(a) an offer of settlement may not be based solely on the useful life of the damaged part or vehicle;

(b) an estimate of the amount of compensation for a claimant shall include the actual wear and tear, or lack thereof, of the damaged part or vehicle;

(c) actual cash value shall consider the cost of replacement of the part or vehicle for which compensation is claimed;

(d) an actual estimate of the true useful life remaining in the part or vehicle shall be considered in establishing the amount of compensation of a claim; and

(e) actual cash value shall include taxes and other fees incurred by a claimant in replacing the part or vehicle or in compensating the claimant for the loss incurred.

(11) An insurer may not demand reimbursement of a personal injury protection payment from a first party claimant from a settlement or judgment against a third party, except as provided by law.

(12)(a) An insurer shall provide reasonable written notice to a claimant before termination of payment for automobile storage charges and claim documentation of the denial.

(b) An insurer shall provide a reasonable time for the claimant to remove the vehicle from storage before terminating a payment.

R590-190-12. Unfair Claim Settlement Practices for Automobile Insurance.

The commissioner finds the following acts to be misleading, deceptive, unfairly discriminatory, overreaching, or an unreasonable restraint on competition in settling a claim:

(1) settling a claim for an amount that is less than the amount the insurer would be charged if repairs were made, unless the amount is agreed to by the claimant or provided for by the policy;

(2) refusing to settle a claim based solely upon a police agency issuing or failing to issue a traffic citation;

(3) failing to disclose all coverages for which an application for benefits is required by the insurer;

(4) failing to disclose all coverages, including loss of use, household services, and any other coverages available to the claimant;

(5) requiring a claimant to use only the insurer's claim service to perfect a claim;

(6) failing to provide to a claimant, if requested, the name and address of the salvage dealer who provided a salvage quote for the amount deducted by an insurer in a total loss settlement;

(7) refusing to disclose policy limits if requested by a claimant;

(8) using a release on the back of a check or draft that requires a claimant to release an insurer from an obligation on further claims to process a current claim if an insurer knows or reasonably should know that there may be future liability on the part of the insurer;

(9) refusing to use a separate release of claim document, rather than one on the back of a check or draft, if requested to do so by a claimant;

(10) intentionally offering less money to a first party claimant than the claim is reasonably worth;

(11) refusing to offer to pay a claim based on comparative negligence without a reasonable basis for doing so; and

(12) imputing the negligence of a permissive user of a vehicle to the owner of the vehicle in a bailment situation.

R590-190-13. Standards for Prompt, Fair, and Equitable Settlement for Fire and Extended Coverage Type Policies with Replacement Cost Coverage.

(1)(a) If a policy provides for the adjustment and settlement of first party losses based on replacement cost, the following apply:

(i) if a loss requires repair or replacement of an item or part, any significant physical damage incurred in making such repair or replacement not otherwise excluded by the policy shall be included in the loss; and

(ii) if a loss requires repair or replacement of items and the repaired or replaced items do not match in color, texture, or size, the insurer shall repair or replace items to conform to a reasonably uniform appearance for both interior and exterior losses.

(b) For a settlement described in Subsection (1)(a), an insured is only responsible for the applicable deductible.

(2)(a)(i) If a policy provides for an adjustment and settlement of loss on an actual cash value basis on residential fire and extended coverage, an insurer shall determine actual cash value as the replacement cost of property at the time of the loss less depreciation, if any.

(ii) Upon an insured's request, an insurer shall provide a copy of any relevant documentation from the claim file detailing each deduction for depreciation.

(b)(i) If an insured's interest is limited because the property has nominal or no economic value, or a value disproportionate to replacement cost less depreciation, the determination of actual cash value is not required.

(ii) In a case described in Subsection (2)(b)(i), an insurer shall provide, upon the insured's request, a written explanation of the basis for limiting the amount of recovery along with the amount payable under the policy.

R590-190-14. Severability.

If any provision of this rule, Rule R590-190, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: insurance law
Date of Last Change: 2023[~~July 28, 1999~~]
Notice of Continuation: April 3, 2019
Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-26-301; 31A-26-303; 31A-21-312; 31A-2-308

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal and Reenact		
Rule or Section Number:	**R590-191**	**Filing ID: 55511**

Agency Information

1. Department:	Insurance
Agency:	Administration
Room number:	Suite 2300
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO Box 146901
City, state and zip:	Salt Lake City, UT 84114-6901
Contact persons:	

Name:	**Phone:**	**Email:**
Steve Gooch	801-957-9322	sgooch@utah.gov

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

General Information

2. Rule or section catchline:

R590-191. Unfair Life Insurance Claims Settlement Practices Rule

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 (the old R590-191-7) and Enforcement Date (the old R590-191-8) sections, and update the Severability (the new R590-191-9) 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
Total Fiscal Cost	**$0**	**$0**	**$0**
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
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

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

The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.

Citation Information

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

Section 31A-2-201	Section 31A-21-312	Section 31A-26-301
Section 31A-26-303		

Public Notice Information

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

A) Comments will be accepted until:	08/14/2023

9. This rule change MAY become effective on:	08/21/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	**Date:**	06/29/2023

R590. Insurance, Administration.

[~~R590-191. Unfair Life Insurance Claims Settlement Practices Rule.~~

~~R590-191-1. Authority.~~

~~This rule is promulgated pursuant to Subsections 31A-2-201(1) and 31A-2-201(3)(a) in which the commissioner is empowered to administer and enforce this title and to make rules to implement the provisions of this title. Further authority to provide for timely payment of claims is provided by Subsection 31A-26-301(1). Matters relating to proof and notice of loss are promulgated pursuant to Section 31A-26-301 and Subsection 31A-21-312(5). Authority to promulgate rules defining unfair claims settlement practices or acts is provided in Subsection 31A-26-303(4). The authority to require a timely response to the Insurance Department is provided by Section 31A-2-202(4). Authority to require payment of interest on death proceeds is provided in Section 31A-22-428.~~

~~R590-191-2. Purpose.~~

~~This rule sets forth minimum standards for the investigation and disposition of life insurance claims arising under policies or certificates issued to residents of the State of Utah. These standards include fair and rapid settlement of claims, protecting claimants under insurance policies from unfair claims settlement practices and promoting the professional competence of those engaged in processing claims. The various provisions of this rule are intended to define procedures and practices which constitute unfair claim settlement practices. This rule is regulatory in nature and is not intended to create a private right of action.~~

~~R590-191-3. Definitions.~~

~~For the purpose of this rule the Commissioner adopts the definitions as set forth in Section 31A-1-301, and the following:~~

~~(1) "Beneficiary" means the party entitled to receive the proceeds or benefits occurring under the policy.~~

~~(2) "Claim File" means any record either in its original form or as recorded by any process which can accurately and reliably reproduce the original material regarding the claim, its investigation, adjustment and settlement.~~

~~(3) "Claim Representative" means any individual, corporation, association, organization, partnership, or other legal entity authorized to represent an insurer with respect to a claim.~~

~~(4) "Claimant" means a person making a claim under a policy, including an insured, policyholder, beneficiary, or the claimant's legal representative, including a member of the claimant's immediate family.~~

~~(5) "Days" means calendar days.~~

~~(6) "Documentation" includes, but is not limited to, all written and electronic communication records, transactions, notes, work papers, claim forms, and explanation of benefits forms relative to the claim.~~

~~(7) "Investigation" means all activities of an insurer related to the determination of liabilities under coverages afforded by an insurance policy or insurance contract.~~

~~(8) "Notice of Loss" means any notification, whether in writing or other means acceptable under the terms of an insurance policy to an insurer or its representative, by a claimant, which reasonably apprises the insurer of the facts pertinent to a claim.~~

~~(9) "Proof of Loss" means written proofs, such as claim forms, medical authorizations or other reasonable evidence of the claim that is ordinarily required of all claimants submitting claims.~~

~~R590-191-4. Minimum Standards for Prompt, Fair and Equitable Claim Handling Processes and Communications.~~

~~(1) Notice of loss to an insurer, if required, shall be considered timely if made according to the terms of the policy, subject to the definitions and provisions of this rule, and the provisions of Section 31A-21-312.~~

~~(2) Notice of loss may be given to the insurer or its representative unless the insurer clearly directs otherwise in accordance with policy provisions or in a separate written notice mailed or delivered to the claimant.~~

~~(3) Subject to policy provisions, a requirement of any notice of loss may be waived by an authorized representative of the insurer.~~

~~(4) Insurance policies may not require notice of loss to be given in a manner which is inconsistent with the actual practice of the insurer. For example, if the practice of the insurer is to accept notice of loss by telephone, the policy shall reflect that practice, and not require that the claimant furnish "immediate written notice" of loss.~~

~~(5) Within 15 days of receipt of notice of loss from a claimant, the insurer shall provide necessary claim forms, instructions, and reasonable assistance so the claimant can properly comply with company requirements for filing a claim.~~

~~(6) Proof of loss to an insurer, if required, shall be considered timely if made according to the terms of the policy, subject to the definitions and provisions of this rule, and the provisions of Section 31A-21-312. Proof of loss requirements may not be unreasonable and should consider all of the circumstances surrounding a given claim.~~

~~(7) Within 15 days of receipt of proof of loss from a claimant, the insurer shall:~~

~~(a) provide written acknowledgment of the receipt of the proof of loss;~~

~~(b) request any necessary additional information from claimant; and~~

~~(c) commence any necessary investigation of the claim, including requesting additional information from other parties having documentation or information relating to the claim; or~~

~~(d) provide the claim settlement and a written explanation of benefits to the claimant if no additional information or investigation is necessary.~~

~~(8) Within 15 days of receipt of any communications relating to a claim which reasonably suggests that a response is expected, the insurer shall substantively respond to such communication.~~

~~(9) Within 30 days of receipt of proof of loss from the claimant, the insurer shall complete the investigation of a claim,~~

~~unless such investigation cannot reasonably be completed within such time. It shall be the burden of the insurer to establish, by adequate records, that the investigation could not be completed within 30 days of its receipt of proof of loss. If the investigation cannot be completed within 30 days, the insurer shall communicate to the claimant a written explanation as to the reasons for the delay and shall continue to so communicate at least every 30 days until the claim is either settled or denied.~~

~~(10) Within 15 days of completion of the investigation, the insurer shall either:~~

~~(a) provide the claim settlement and a written explanation of benefits to the claimant; or~~

~~(b) provide, in writing, a denial of the claim and an explanation to the claimant as to the reasons for the denial.~~

~~(11) Closing a claim file without settlement is considered a denial and must be so communicated in writing to the claimant and according to the provisions of the policy.~~

~~(12) If recalculation/revisitation of a claim becomes necessary subsequent to either denial or settlement, the insurer shall again comply with the initial claim handling process requirements as described in this section.~~

~~(13) Upon receipt of an inquiry from the Insurance Department regarding a claim, every licensee shall furnish a substantive response to the Insurance Department within the time period specified in the inquiry.~~

~~R590-191-5. Unfair Claims Settlement Practices.~~

~~The commissioner, pursuant to 31A-26-303(4), hereby finds the following acts or failure to perform required acts to be misleading, deceptive, unfairly discriminatory, or overreaching in the settlement of claims:~~

~~(1) concealing from or failing to fully disclose to a claimant any benefits, limitations, exclusions, coverages, or other relevant provisions of an insurance policy or insurance contract under which a claim is presented;~~

~~(2) denying or threatening the denial of a claim for any reason which is not clearly described in the policy;~~

~~(3) refusing to settle claims without conducting a reasonable and complete investigation;~~

~~(4) refusing to provide a written basis for the denial of a claim upon demand of the claimant;~~

~~(5) failing to provide the claimant with a written explanation of the evidence of any investigation or file materials giving rise to the denial of a claim based on misrepresentation or fraud on an insurance application, when such misrepresentation is the basis for the denial;~~

~~(6) compensating employees, agents or contractors of any amounts which are based on savings to the insurer as a result of reducing or denying claims;~~

~~(7) making a claim settlement to the claimant not accompanied by a statement or explanation of benefits setting forth the coverage under which the settlement is being made and how the settlement amount was calculated;~~

~~(8) failing to settle a claim following receipt of proof of loss when liability is reasonably clear in order to influence other claim settlements under other portions of the insurance policy coverage or under other policies of insurance;~~

~~(9) advising a claimant not to obtain the services of an attorney or other advocate or suggesting the claimant will receive less money if an attorney is used to pursue or advise on the merits of a claim;~~

~~(10) misleading a claimant as to the applicable statute of limitations;~~

~~(11) issuing a check or draft in partial settlement of a loss or a claim under a specified coverage when such check or draft contains language which purports to release the insurer from total liability;~~

~~(12)(a) for policies issued prior to May 5, 2008, failing to pay interest at the legal rate, as provided in Title 15 of the Utah Code upon amounts that are overdue under these rules. A claim shall be considered overdue if not settled within 15 days of completion of the investigation; or~~

~~(b) for policies issued on or after May 5, 2008, failing to pay interest in accordance with Section 31A-22-428; and~~

~~(13) failing to deliver a copy of the insurer's guidelines for prompt investigation of claims to the Insurance Department when requested to do so.~~

~~R590-191-6. File and Record Documentation.~~

~~Each insurer's claim files for policies or certificates are subject to examination by the commissioner of insurance or by the commissioner's duly appointed designees. To aid in such examination:~~

~~(1) The insurer shall maintain accessible and retrievable claim file data for examination. The insurer shall be able to provide the policy number, certificate number if any, duplicate of the policy as issued, date of loss, date notice of loss was received, date proof of loss was received, date any investigation commenced, date the investigation was completed, date of settlement or denial of the claim or date the claim was closed without settlement, documentation as to how the claim was settled and how any payments were calculated, and any other documentation relied upon for claim settlement by the insurer. This data shall be available for all open and closed files for at least the most recent three year period, or, for a Utah domiciled insurer, since the date of the previous examination by the department, whichever is longer.~~

~~(2) Detailed documentation shall be contained in each claim file in order to permit reconstruction of the insurer's activities relative to each claim.~~

~~(3) Each document within the claim file shall be noted as to date received, date processed or date mailed.~~

~~(4) The claim file records must be maintained either in hard copy files, or some other format that has the capability of duplication to hard copy.~~

~~R590-191-7. 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.~~

~~R590-191-8. Enforcement Date.~~

~~The commissioner will begin enforcing the provisions of this rule immediately upon the effective date.~~

~~R590-191-9. Severability.~~

~~If any provision or clause of this rule or its application to any person or situation is held 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.~~]

R590-191. Unfair Life Insurance Claim Settlement Practice Rule.

R590-191-1. Authority.

This rule is promulgated by the commissioner pursuant to Sections 31A-2-201, 31A-21-312, 31A-26-301, and 31A-26-303.

R590-191-2. Purpose and Scope.

(1) The purpose of this rule is to:

(a) set standards for the investigation and disposition of an annuity contract or life insurance claim; and

(b) identify an unfair claim practice.

(2) This rule applies to an insurer and an authorized agent.

R590-191-3. Definitions.

Terms used in this rule are defined in Section 31A-1-301. Additional terms are defined as follows:

(1) "Authorized agent" means an individual, corporation, association, organization, partnership, or other legal entity authorized to represent an insurer with respect to a claim.

(2) "Beneficiary" means a party entitled to receive proceeds or benefits under a contract or policy.

(3) "Claim file" means a record that can accurately and reliably reproduce the original material regarding a claim, its investigation, adjustment, and settlement.

(4) "Claimant" means an insured or an insured's legal representative, including an immediate family member designated by the insured.

(5) "Days" means calendar days.

(6) "Documentation" means a physical or an electronic record related to a claim.

(7) "General business practice" means a pattern of conduct in a business.

(8) "Investigation" means an activity of an insurer related to the determination of liability of a claim.

(9) "Notice of loss" means a claimant's notice that reasonably informs an insurer of the facts related to a claim.

(10) "Proof of loss" means a claimant's reasonable documentation in support of a claim.

R590-191-4. File and Record Documentation.

(1) An insurer's claim file is subject to examination by the commissioner.

(2) To aid in an examination, an insurer shall maintain:

(a) claim data that is accessible and retrievable for examination, including:

(i) the policy number;

(ii) the certificate number, if any;

(iii) a duplicate of the policy, as issued;

(iv) the claim number;

(v) the date of loss;

(vi) the date the notice of loss was received;

(vii) the date the proof of loss was received;

(viii) the date an investigation began and was complete;

(ix) the date of the settlement of the claim;

(x) the type of settlement, indicated as:

(A) payment, including the amount paid;

(B) settled without payment; or

(C) denied;

(xi) documentation supporting how the claim was settled and how any payments were calculated; and

(xii) other documentation relied upon for claim settlement;

(b) detailed documentation in each claim file permitting the reconstruction of the insurer's activities relative to the claim; and

(c) the claim file record in a hard copy file or other format that has the capability of duplication to hard copy.

(3) The data in Subsection (2) shall:

(a) be available for each open and closed file for at least the most recent three-year period; or

(b) for a Utah domiciled insurer, be available from the date of the previous examination by the department.

R590-191-5. Disclosure of Policy Provisions.

(1) An insurer or an authorized agent shall disclose to a claimant any benefit, limitation, or exclusion of a policy that relates to a particular claim presented.

(2) An insurer or an authorized agent shall disclose to a claimant any provision of a policy that relates to an inquiry regarding coverage.

R590-191-6. Notice and Proof of Loss.

(1)(a) A notice of loss to an insurer, if required, is considered timely if made according to the terms of the policy, this rule, and Section 31A-21-312.

(b) A notice of loss may be given to an insurer or an authorized agent.

(c) A notice of loss requirement may be waived by an authorized agent.

(d) The general business practice of an insurer when accepting a notice of loss shall be consistent for all policyholders.

(e) Within 15 days of receiving a notice of loss from a claimant, an insurer shall provide necessary claim forms, instructions, and reasonable assistance so the claimant can properly comply with the insurer's requirements for filing a claim.

(2)(a) A proof of loss to an insurer is considered timely if made according to the terms of the policy, this rule, and Section 31A-21-312.

(b) A proof of loss requirement may not be unreasonable and shall consider the circumstances surrounding a given claim.

R590-191-7. Minimum Standards for Prompt, Fair, and Equitable Benefit Determination and Settlement.

(1)(a) A benefit determination time period begins once an insurer receives a claim, regardless of whether all necessary information was filed with the original claim.

(b) If an insurer requires an extension due to a claimant's failure to submit necessary information, the time period for making a decision is tolled from the date the notice is sent to the claimant through:

(i) the date the claimant provides the necessary information; or

(ii) 48 hours after the end of the time period for the claimant to provide the additional information.

(2) Within 15 days of receiving a proof of loss from a claimant, an insurer shall:

(a) provide written acknowledgment of receipt of the proof of loss;

(b) request any necessary additional information from the claimant; and

(c) begin any necessary investigation of the claim, including requesting additional information from other parties having documentation or information relating to the claim.

(3) If no additional information or investigation is necessary under Subsection (2), an insurer shall provide the claim settlement and a written explanation of benefits to the claimant.

(4) Within 15 days of receiving any communication relating to a claim that reasonably suggests that a response is expected, an insurer shall substantively respond to the communication.

(5)(a) Within 30 days of receiving a proof of loss from a claimant, an insurer shall complete the investigation of the claim.

(b) If the investigation cannot reasonably be completed within 30 days, an insurer shall:

(i) establish, with adequate records, that the investigation could not be completed within 30 days of its receipt of the proof of loss;

(ii) communicate to the claimant, in writing, the reasons for the delay; and

(iii) continue to communicate in writing at least every 30 days until the claim is either settled or denied.

(6) Within 15 days of completing an investigation, an insurer shall:

(a) provide a claim settlement and a written explanation to the claimant; or

(b) provide, in writing, a denial of the claim and an explanation to the claimant of the reason for the denial.

(7) Closing a claim file without settlement is a denial and must be communicated, in writing, to the claimant according to this rule and the policy provisions.

(8) If recalculation or revisitation of a claim is necessary, the insurer shall comply with the initial claim handling process requirements described in this section.

R590-191-8. Unfair Claim Settlement Practices.

The commissioner finds that the following acts or general business practices are unfair claim settlement practices and are misleading, deceptive, unfairly discriminatory, overreaching, or an unreasonable restraint on competition:

(1) concealing from or failing to fully disclose to a claimant a benefit, limitation, exclusion, coverage, or other relevant provision of a contract or policy under which a claim is presented;

(2) denying or threatening to deny a claim, rescinding, canceling, or threatening to rescind or cancel coverage under a policy for a reason that is not clearly described in the contract or policy as a reason for denial, cancellation, or rescission;

(3) refusing to settle a claim without conducting a reasonable investigation;

(4) refusing to provide a written basis for denying a claim upon demand of a claimant;

(5) failing to provide a claimant with a written explanation of the evidence of an investigation or the claim file materials supporting a denial of a claim based on misrepresentation or fraud, if misrepresentation or fraud is the basis for the denial;

(6) compensating an employee, producer, or contractor an amount based on savings to the insurer due to reducing or denying a claim;

(7) making a claim settlement to a claimant without a statement or explanation that describes the coverage under which the settlement is made and how the settlement amount was calculated;

(8) failing to settle a claim following receipt of a proof of loss if liability is reasonably clear to influence another claim settlement under another portion of the policy or under another policy;

(9) advising a claimant not to obtain the services of an attorney or other advocate, or suggesting a claimant will receive less money if an attorney is used to:

(a) pursue a claim; or

(b) advise on the merits of a claim;

(10) misleading a claimant about applicable statutes of limitation;

(11) issuing a check or a draft in partial settlement that contains language that releases an insurer from total liability;

(12)(a) a policy issued before May 5, 2008, that fails to pay interest at the legal rate, under Title 15, Chapter 1, Interest, on an amount that is overdue;

(b) a claim is overdue if not settled within 15 days of completing the investigation; and

(13) a policy issued on or after May 5, 2008, that fails to pay interest under Section 31A-22-428.

R590-191-9. Severability.

If any provision of this rule, Rule R590-191, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: insurance law
Date of Last Change: 2023[~~May 29, 2008~~]
Notice of Continuation: April 3, 2019
Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-2-204; 31A-2-308; 31A-21-312; 31A-22-428; 31A-26-301; 31A-26-303

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal and Reenact		
Rule or Section Number:	**R590-192**	**Filing ID: 55512**

Agency Information

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

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

General Information

2. Rule or section catchline:

R590-192. Unfair Accident and Health Claims Settlement Practices

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 (the old R590-192-14) section, and update the Severability (the new R590-192-11) 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
Total Fiscal Cost	**$0**	**$0**	**$0**
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
Total Fiscal Benefits	**$0**	**$0**	**$0**

Net Fiscal Benefits	**$0**	**$0**	**$0**
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 31A-2-201	Section 31A-2-216	Section 31A-21-312
Section 31A-22-629	Section 31A-26-301	Section 31A-26-301.6
Section 31A-26-303		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	08/14/2023

9. This rule change MAY become effective on:	08/21/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	**Date:**	06/29/2023

R590. Insurance, Administration.

[~~R590-192. Unfair Accident and Health Claims Settlement Practices.~~

~~R590-192-1. Authority.~~

~~This rule is promulgated pursuant to Subsections 31A-2-201(1) and 31A-2-201(3)(a) in which the commissioner is empowered to administer and enforce Title 31A and to make rules to implement the provisions of Title 31A. Further authority to provide for timely settlement of claims is provided by Subsection 31A-26-301(1). Matters relating to proof and notice of loss are promulgated pursuant to Section 31A-26-301 and Subsection 31A-21-312(5). Authority to promulgate rules defining unfair claims settlement practices or acts is provided in Subsection 31A-26-303(4). The authority to require a timely, accurate, and complete response to the commissioner is provided by Subsections 31A-2-202(4) and (6).~~

~~R590-192-2. Purpose.~~

~~This rule sets forth minimum standards for the investigation and disposition of accident and health insurance claims arising under policies or certificates issued in the State of Utah. These standards include fair and rapid settlement of claims, protection of claimants under insurance policies from unfair claims settlement practices, and the promotion of the professional competence of those engaged in processing of claims. The various provisions of this rule are intended to define procedures and practices which constitute unfair claim practices and responses to the commissioner. This rule is regulatory in nature and is not intended to create a private right of action.~~

~~R590-192-3. Applicability and Scope.~~

~~(1) This rule applies to all accident and health insurance policies, as defined by Section 31A-1-301.~~

~~(2) This rule incorporates by reference 29 CFR 2560.503-1, excluding 2560.503-1(a).~~

~~R590-192-4. Definitions.~~

~~For the purpose of this rule the commissioner adopts the definitions as set forth in Section 31A-1-301, 29 CFR 2560.503-1(m), and the following:~~

~~(1)(a) "Adverse benefit determination" means, for an accident and health insurance policy other than a health benefit plan, any of the following: a denial, reduction, or termination of, or a failure to provide or make payment, in whole or in part, for a benefit, including any such denial, reduction, termination, or failure to provide or make payment that is based on a determination of an insured's eligibility to participate in a plan, and including, with respect to group health plans, a denial, reduction, or termination of or failure to provide or make payment, in whole or in part, for a benefit resulting from the application of any utilization review, as well as a failure to cover an item or service for which benefits are otherwise experimental or investigational or not medically necessary or appropriate; and~~

~~(b)(i) "Adverse benefit determination" means, for a health benefit plan:~~

~~(A) based on the insurer's requirements for medical necessity, appropriateness, health care setting, level of care, or effectiveness of a covered benefit, the:~~

~~(I) denial of a benefit;~~

~~(II) reduction of a benefit;~~

~~(III) termination of a benefit; or~~

~~(IV) failure to provide or make payment, in whole or part, for a benefit; or~~

~~(B) rescission of coverage.~~

~~(ii) "Adverse benefit determination" includes:~~

~~(A) denial, reduction, termination, or failure to provide or make payment that is based on a determination of an insured's eligibility to participate in a health benefit plan;~~

~~(B) failure to provide or make payment, in whole or part, for a benefit resulting from the application of a utilization review; and~~

~~(C) failure to cover an item or service for which benefits are otherwise provided because it is determined to be:~~

~~(I) experimental;~~

~~(II) investigational; or~~

~~(III) not medically necessary or appropriate.~~

(2) "Claim File" means any record either in its original form or as recorded by any process which can accurately and reliably reproduce the original material regarding the claim, its investigation, adjustment and settlement.

(3) "Claim Representative" means any individual, corporation, association, organization, partnership, or other legal entity authorized to represent an insurer with respect to a claim, whether or not licensed within the State of Utah to do so.

(4) "Claimant" means an insured, or legal representative of the insured, including a member of the insured's immediate family designated by the insured, making a claim under a policy.

(5) "Ongoing" or "Concurrent care" decision means an insurer has approved an ongoing course of treatment to be provided over a period of time or number of treatments.

(6) "Days" means calendar days.

(7) "Documentation" means a document, record, or other information that is considered relevant to a claimant's claim because such document, record, or other information:

(a) was relied upon in making the benefit determination;

(b) was submitted, considered, or generated in the course of making the benefit determination, without regard to whether such document, record, or other information was relied upon in making the benefit determination; and

(c) in the case of an insurer providing disability income benefits, constitutes a statement of policy or guidance with respect to the insurer concerning the denied treatment option or benefit for the insured's diagnosis, without regard to whether such advice or statement was relied upon in making the benefit determination.

(8) "General business practice" means a pattern of conduct.

(9) "Investigation" means all activities of an insurer directly or indirectly related to the determination of liabilities under coverage afforded by an insurance policy.

(10) "Medical necessity" means:

(a) health care services or product that a prudent health care professional would provide to a patient for the purpose of preventing, diagnosing or treating an illness, injury, disease or its symptoms in a manner that is:

(i) in accordance with generally accepted standards of medical practice in the United States;

(ii) clinically appropriate in terms of type, frequency, extent, site, and duration;

(iii) not primarily for the convenience of the patient, physician, or other health care provider; and

(iv) covered under the contract; and

(b) when a medical question of fact exists, medical necessity shall include the most appropriate available supply or level of service for the individual in question, considering potential benefits and harms to the individual, and known to be effective.

(i) For an intervention not yet in widespread use, the effectiveness shall be based on scientific evidence.

(ii) For an established intervention, the effectiveness shall be based on:

(A) scientific evidence;

(B) professional standards; and

(C) expert opinion.

(11) "Notice of Loss" means that notice which is in accordance with policy provisions and insurer practices. Such notice shall include any notification, whether in writing or other means, which reasonably apprizes the insurer of the existence of or facts relating to a claim.

(12) "Pre-service claim" means any claim for a benefit under an accident and health policy with respect to which the terms of the plan condition receipt of the benefit, in whole or in part, on approval of the benefit in advance of obtaining medical care.

(13) "Post-service claim" means any claim for a benefit that is not a pre-service claim or urgent care claim.

(14) "Scientific evidence" is:

(a)(i) scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff; or

(ii) findings, studies or research conducted by or under the auspices of federal government agencies and nationally recognized federal research institutes;

(b) scientific evidence shall not include published peer-reviewed literature sponsored to a significant extent by a pharmaceutical manufacturing company or medical device manufacturer or a single study without other supportable studies.

(15) "Urgent care claim" means any claim for medical care or treatment with respect to which the application of the time periods for making non-urgent care determination:

(a) could seriously jeopardize the life or health of the insured or the ability of the insured to regain maximum function; or

(b) in the opinion of a physician with knowledge of the insured's medical condition, would subject the insured to severe pain that cannot be adequately managed without the care or treatment that is the subject of the claim.

R590-192-5. File and Record Documentation.

Each insurer's claim files are subject to examination by the commissioner. To aid in such examination:

(1) Sufficient detailed documentation shall be contained in each claim file in order to reconstruct the benefit determination, and the calculation of the claim settlement for each claim.

(2) Each document within the claim file shall be noted as to date received, date processed and notification date.

(3) The insurer shall maintain claim data that is accessible and retrievable for examination. An insurer shall be able to provide:

(a) the claim number;

(b) copy of all applicable forms;

(c) date of loss;

(d) date of claim receipt;

(e) date of benefit determination;

(f) date of settlement of the claim; and

(g) type of settlement indicated as:

(i) payment, including the amount paid;

(ii) settled without payment; or

(iii) denied.

R590-192-6. Disclosure of Policy Provisions.

(1) An insurer, or the insurer's claim representative, shall fully disclose to a claimant the benefits, limitations, and exclusions of an insurance policy which relate to the diagnoses and services relating to the particular claim being presented.

(2) An insurer, or the insurer's claim representative, must disclose to a claimant provisions of an insurance policy when receiving inquiries regarding such coverage.

R590-192-7. Notice of Loss.

(1) Notice of loss to an insurer, if required, shall be considered timely if made according to the terms of the policy, subject to the definitions and provisions of this rule.

(2) Notice of loss may be given to the insurer or its claim representative unless the insurer clearly directs otherwise by means of policy provisions or a separate written notice mailed or delivered to the claimant.

(3) Subject to policy provisions, a requirement of any notice of loss may be waived by any authorized claim representative of the insurer.

(4) The general business practice of the insurer when accepting a notice of loss or notice of claim shall be consistent for all policyholders in accordance with the terms of the policy.

R590-192-8. Notification.

(1) The insurer shall provide notification of the benefit determination to the claimant which includes:

(a) the specific reason or reasons for the benefit determination, adverse or not;

(b) reference to the specific plan provisions on which the benefit determination is based;

(c) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary; and

(d) a description of the insurer's review procedures and the time limits applicable to such procedures, including a statement of the claimant's right to bring civil action.

(2) For a health benefit plan, except for a grandfathered health benefit plan as defined in 45 CFR 147.140, a notice of adverse benefit determination shall provide:

(a) starting with the plan year that begins on or after July 1, 2011:

(i) sufficient information to identify the claim involved, including the date of service, the health care provider, and the claim amount, if applicable; and

(ii) notification of assistance available at the Utah Insurance Department, Office of Consumer Health Assistance, Suite 3110, State Office Building, Salt Lake City UT 84114; and

(b) starting with the plan year that begins on or after January 1, 2012:

(i) the availability, upon request, of the diagnosis code and treatment code with the corresponding meaning for each; and

(ii) the content in a culturally and linguistically appropriate manner as required by 45 CFR 147.136 (e).

(3) An insurer and the insurer's claim representative, in the case of a failure by a claimant to follow the individual or group health plan's procedures for filing a pre-service claim, shall notify the claimant, of the failure and provide the proper procedures to be followed in filing a claim for benefits. This notification shall be provided to the claimant as soon as possible, but not later than five days, or 24 hours for a claim involving urgent care, following the failure. Notification may be oral, unless written notification is requested by the claimant.

(4) Disability income adverse benefit determinations must:

(a) if an internal rule, guideline, protocol, or other criterion was relied upon in making the adverse determination, provide either the specific rule, guideline, protocol, or other similar criterion; or a statement that such a rule, guideline, protocol, or other similar criterion was relied upon in making the adverse determination and that a copy of such rule, guideline, protocol, or other criterion will be provided free of charge to the claimant upon request; or

(b) if the adverse benefit determination is based on a medical necessity or experimental treatment or similar exclusion or limit, provide either an explanation of the scientific or clinical judgment for the determination, applying the terms of the plan to the insured's medical circumstances, or a statement that such explanation will be provided free of charge upon request.

(5) Urgent care adverse benefit determination must:

(a) provide written or electronic notification to the claimant no later than three days after the oral notification; and

(b) provide a description of the expedited review process applicable to such claims.

R590-192-9. Minimum Standards for Claim Benefit Determination and Settlement.

(1) All benefit determination time limits begin once the insurer receives a claim, without regard to whether all necessary information was filed with the original claim. If the insurer requires an extension due to the claimant's failure to submit necessary information, the time for making a decision is tolled from the date the notice is sent to the claimant through:

(a) the date that the claimant provides the necessary information; or

(b) 48 hours after the end of the period afforded the claimant to provide the specified additional information.

(2) Urgent Care Claims:

(a) In a case of urgent care, an insurer shall notify the claimant of the insurer's benefit decision, adverse or not, as soon as possible, taking into account the medical exigencies of the situation, but no later than 72 hours after the receipt of the claim

(b)It is the insurer's duty to determine whether a claim is urgent based on the information provided by the claimant. If the claimant does not provide sufficient information for the plan to make a decision, the plan must notify the claimant as soon as possible, but not later than 24 hours after receipt of the claim, of the specific information that is required. The claimant shall be given reasonable time, but not less than 48 hours, to provide that information.

(ii) The insurer must notify the claimant of the insurer's decision as soon as possible but not later than 48 hours after the earlier of the plan's receipt of the requested information or the end of the time given to the claimant to provide the information.

(3) Concurrent Care Decision:

(a) Reduction or termination of concurrent care:

(i) Any reduction in the course of treatment is considered an adverse benefit determination.

(ii) The insurer must give the claimant notice, with sufficient time to appeal that adverse benefit determination and sufficient time to receive a decision of the appeal before any reduction or termination of care occurs.

(b) Extension of concurrent care:

(i) A claimant may request an extension of treatment beyond what has already been approved.

(ii) If the request for an extension is made at least 24 hours before the end of the approved treatment, the insurer must notify the claimant of the insurer's decision as soon as possible but no later than 24 hours after receipt of the claim.

(iii) If the request for extension does not involve urgent care, the insurer must notify the claimant of the insurer's benefit decision using the response times for a post-service claim.

(4) Pre-Service Benefit Determination:

(a) An insurer must notify the claimant of the insurer's benefit decision within 15 days of receipt of the request for care.

(b) If the insurer is unable to make a decision within that time due to circumstances beyond the insurer's control, such as late receipt of medical records, it must notify the claimant before expiration of the original 15 days that it intends to extend the time

and then the insurer may take as long as 15 additional days to reach a decision.

(c) If the extension is due to failure of the claimant to submit necessary information, the extension notice of delay must give specific information about what the claimant has to provide and the claimant must be given at least 45 days to submit the requested information.

(d) once the pre-service claim determination has been made and the medical care rendered, the actual claim filed for payment will be processed according to the time requirements of a post-service claim.

(5) Post Service Claims:

(a) An insurer must notify the claimant of the insurer's benefit decision within 30 days of receipt of the request for claim.

(b) If the insurer is unable to make a decision within that time due to circumstances beyond the insurer's control, such as late receipt of medical records, it must notify the claimant before expiration of the original 30 days that it intends to extend the time and then the insurer may take as long as 15 additional days to reach a decision.

(c) If the extension is due to failure of the claimant to submit necessary information, the extension notice of delay must give specific information about what the claimant has to provide and the claimant must be given at least 45 days to submit the requested information.

(6) A health benefit plan is required to provide continued coverage for an ongoing course of treatment pending the outcome of an internal appeal.

(7) Except for a grandfathered individual health benefit plan as defined in 45 CFR 147.140, an insurer offering an individual health benefit plan shall provide only one level of internal appeal before the final determination is made.

R590-192-10. Minimum Standards for Disability Income Benefit Determination and Settlement.

In the case of a claim for disability income benefits, the insurer shall notify the claimant, of the insurer's adverse benefit determination within a reasonable period of time, but not later than 45 days after receipt of the claim by the insurer.

(1) This period may be extended by the insurer for up to 30 days, provided that the insurer determines that such an extension is necessary due to matters beyond the control of the insurer and notifies the claimant, prior to the expiration of the initial 45-day period, of the circumstances requiring the extension of time and the date by which the insurer expects to render a decision.

(2) If, prior to the end of the first 30-day extension period, the insurer determines that, due to matters beyond the control of the insurer, a decision cannot be rendered within that extension period, the period for making the determination may be extended for up to an additional 30 days, provided the insurer notifies the claimant prior to the expiration of the first 30-day extension period, of the circumstances requiring the extension and the date at which the insurer expects to render a decision.

(3) Each notice of extension shall specifically explain the standards on which entitlement to a benefit is based, the unresolved issues that prevent a decision on the claim, and the additional information needed to resolve those issues, and the claimant shall be afforded at least 45 days within which to provide the specified information.

R590-192-11. Minimum Standards for Responses to the Commissioner.

(1) Every insurer, upon receipt of an inquiry from the commissioner regarding a claim, shall furnish the commissioner with a substantive response to the inquiry within the appropriate number of days indicated by such inquiry. If it is determined by the insurer that they are unable to respond in the time frame requested, the insurer may contact the commissioner to request an extension.

(2) The insurer shall acknowledge and substantively respond within 15 days to any written communication from the claimant relating to a pending claim.

R590-192-12. Unfair Methods, Deceptive Acts and Practices Defined.

The commissioner, pursuant to Subsection 31A-26-303(4), hereby finds the following acts, or the failure to perform required acts, to be misleading, deceptive, unfairly discriminatory or overreaching in the settlement of claims:

(1) denying or threatening the denial of the payment of claims or rescinding, canceling or threatening the rescission or cancellation of coverage under a policy for any reason which is not clearly described in the policy as a reason for such denial, cancellation or rescission;

(2)(a) failing to provide the claimant with a written explanation of the evidence of any investigation or file materials giving rise to the denial of a claim based on misrepresentation or fraud on an insurance application, when such alleged misrepresentation is the basis for the denial.

(b) For a health benefit plan, misrepresentation means an intentional misrepresentation of a material fact;

(3) compensation by an insurer of its employees, producers or contractors of any amounts which are based on savings to the insurer as a result of denying or reducing the payment of claims, unless compensation relates to the discovery of billing or processing errors;

(4) failing to deliver a copy of standards for prompt investigation of claims to the commissioner when requested to do so;

(5) refusing to settle claims without conducting a reasonable and complete investigation;

(6) denying a claim or making a claim payment to the claimant not accompanied by a notification, statement or explanation of benefits setting forth the exclusion or benefit under which the denial or payment is being made and how the payment amount was calculated;

(7) failing to make payment of a claim following notice of loss when liability is reasonably clear under one coverage in order to influence settlements under other portions of the insurance policy coverage or under other policies of insurance;

(8) advising a claimant not to obtain the services of an attorney or other advocate or suggesting that the claimant will receive less money if an attorney is used to pursue or advise on the merits of a claim;

(9) misleading a claimant as to the applicable statute of limitations;

(10) deducting from a loss or claims payment made under one policy those premiums owed by the claimant on another policy, unless the claimant consents to such arrangement;

(11) failing to settle a claim on the basis that responsibility for payment of the claim should be assumed by others, except as may otherwise be provided by policy provisions;

~~(12) issuing a check or draft in partial settlement of a loss or a claim under a specified coverage when such check or draft contains language which purports to release the insurer or its insured from total liability;~~

~~(13) refusing to provide a written reason for the denial of a claim upon demand of the claimant;~~

~~(14) refusing to pay reasonably incurred expenses to the claimant when such expenses resulted from a delay, as prohibited by this rule, in the claim settlement;~~

~~(15) failing to pay interest at the legal rate in Title 15:~~

~~(a) upon amounts that are due and unpaid within 20 days of completion of investigation; or~~

~~(b) to a health care provider on amounts that are due and unpaid after the time limits allowed under 31A-26-301.6 ;~~

~~(16) failing to provide a claimant with an explanation of benefits; and~~

~~(17) for a health benefit plan:~~

~~(a) failing to allow a claimant to review the claim file and to present evidence and testimony as part of the claim and appeal processes;~~

~~(b) failing to provide the claimant, at no cost, with any new or additional evidence considered, relied upon, or generated by the insurer in connection with the claim; or~~

~~(c) failing to ensure that all claims and appeals are adjudicated in a manner designed to ensure the independence and impartiality of the persons involved in making the decision.~~

~~R590-192-13. Severability.~~

~~If any provision or clause of this rule or its application to any person or situation is held 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.~~

~~R590-192-14. Enforcement Date.~~

~~The commissioner will begin enforcing the revised provisions of this rule on the effective date.~~]

R590-192. Unfair Accident and Health Insurance Claim Settlement Practice Rule.

R590-192-1. Authority.

This rule is promulgated by the commissioner pursuant to Sections 31A-2-201, 31A-2-216, 31A-21-312, 31A-22-629, 31A-26-301, 31A-26-301.6, and 31A-26-303.

R590-192-2. Purpose and Scope.

(1) The purpose of this rule is to:

(a) set standards for the investigation and disposition of an accident and health insurance claim; and

(b) identify an unfair claim practice.

(2) This rule applies to an insurer and an authorized agent.

R590-192-3. Definitions.

Terms used in this rule are defined in Sections 31A-1-301, 31A-22-629, and 29 CFR 2560.503-1(m). Additional terms are defined as follows:

(1) "Authorized agent" means an individual, corporation, association, organization, partnership, or other legal entity authorized to represent an insurer with respect to a claim.

(2) "Claim file" means a record that can accurately and reliably reproduce the original material regarding a claim, its investigation, adjustment, and settlement.

(3) "Claimant" means an insured or an insured's legal representative, including an immediate family member designated by the insured.

(4) "Concurrent care" or "ongoing care" means an insurer approves an ongoing course of treatment over a specific period or number of treatments.

(5) "Days" means calendar days.

(6) "Documentation" means a physical or an electronic record related to a claim.

(7) "General business practice" means a pattern of conduct in a business.

(8) "Investigation" means an activity of an insurer related to the determination of liability of a claim.

(9) "Medical necessity" means:

(a) a health care service or product that a prudent health care professional would provide to a patient to prevent, diagnose, or treat an illness, injury, disease, or its symptoms in a manner that is:

(i) in accordance with generally accepted standards of medical practice in the United States;

(ii) clinically appropriate in terms of type, frequency, extent, site, and duration;

(iii) not primarily for the convenience of the patient, physician, or other health care provider; and

(iv) covered under the policy; and

(b) if a medical question-of-fact exists, "medical necessity" shall include the most appropriate available supply or level of service for the individual in question, considering potential benefits and harms to the individual, and known to be effective.

(i) For an intervention not yet in widespread use, the effectiveness shall be based on scientific evidence.

(ii) For an established intervention, the effectiveness shall be based on:

(A) scientific evidence;

(B) professional standards; and

(C) expert opinion.

(10) "Misrepresentation" for a health benefit plan means an intentional misrepresentation of a material fact.

(11) "Notice of loss" means a claimant's notice that reasonably informs an insurer of the facts related to a claim.

(12) "Proof of loss" means a claimant's reasonable documentation in support of a claim.

(13)(a) "Scientific evidence" means:

(i) a scientific study published or accepted by a medical journal that meets nationally recognized standards for a scientific manuscript and that submits its published articles for review by experts who are not part of the editorial staff; or

(ii) a finding, a study, or research conducted by or under the auspices of the federal government or a nationally recognized federal research institute.

(b) "Scientific evidence" does not include:

(i) published peer-reviewed literature sponsored by:

(A) a pharmaceutical manufacturing company; or

(B) a medical device manufacturer; or

(ii) a single study without other supportable studies.

R590-192-4. File and Record Documentation.

(1) An insurer's claim file is subject to examination by the commissioner.

(2) To aid in an examination, an insurer shall maintain:

(a) claim data that is accessible and retrievable for examination, including:

(i) the policy number;
(ii) the certificate number, if any;
(iii) a duplicate of the policy, as issued;
(iv) the claim number;
(v) the date of loss;
(vi) the date the notice of loss was received, if required;
(vii) the date the proof of loss was received;
(viii) the date an investigation began and was complete;
(ix) the date of a benefit determination;
(x) the date of the settlement of the claim;
(xi) the type of settlement, indicated as:
(A) payment, including the amount paid;
(B) settled without payment; or
(C) denied;
(xii) documentation supporting how the claim was settled and how any payments were calculated; and
(xiii) other documentation relied upon for claim settlement;
(b) detailed documentation in each claim file permitting the reconstruction of the insurer's activities related to the claim; and
(c) the claim file record in a hard copy or other format that has the capability of duplication to hard copy.
(3) The data in Subsection (2) shall:
(a) be available for all open and closed files for at least the most recent three-year period; or
(b) for a Utah domiciled insurer, be available from the date of the previous examination by the commissioner.

R590-192-5. Disclosure of Policy Provisions.
(1) An insurer or an authorized agent shall disclose to a claimant any benefit, limitation, or exclusion of a policy that relates to a diagnosis or service of a particular claim presented.
(2) An insurer or an authorized agent shall disclose to a claimant any provision of a policy that relates to an inquiry regarding coverage.

R590-192-6. Notice and Proof of Loss.
(1)(a) A notice of loss to an insurer, if required, is considered timely if made according to the terms of the policy, this rule, and Section 31A-21-312.
(b) A notice of loss may be given to an insurer or an authorized agent.
(c) A notice of loss requirement may be waived by an authorized agent.
(d) The general business practice of an insurer when accepting a notice of loss shall be consistent for all policyholders.
(2)(a) A proof of loss to an insurer is considered timely if made according to the terms of the policy, this rule, and Section 31A-21-312.
(b) A proof of loss requirement may not be unreasonable and shall consider the circumstances surrounding a given claim.

R590-192-7. Notification.
(1) An insurer shall notify a claimant of a benefit determination and include:
(a) the specific reason or reasons for the benefit determination;
(b) reference to the specific policy provision that the benefit determination is based upon;
(c) a description of additional information needed and an explanation of why such information is necessary; and
(d) with a notice of an adverse benefit determination:
(i) a description of the appeal procedures and any time limitations;
(ii) a description of how to initiate an appeal along with the address and telephone number;
(iii) the claimant's right to bring civil action; and
(iv) a statement regarding assistance available at the Utah Insurance Department, Office of Consumer Health Assistance.
(2)(a) If a claimant fails to follow an insurer's procedure for filing a pre-service claim, an insurer or authorized agent shall:
(i) notify the claimant of the failure;
(ii) provide the claimant with the proper procedure to file a claim for benefits; and
(iii) provide notification to the claimant:
(A) no later than five days from the failure; or
(B) within 24 hours of the failure for a claim involving urgent care.
(b) Notification of a failure may be oral unless written notification is requested by a claimant.
(3)(a) A notice of adverse benefit determination for a health benefit plan shall comply with Rule R590-261.
(b) Subsection (3)(a) does not apply to a grandfathered health plan defined in 45 CFR 147.140.
(4)(a) A notice of an adverse benefit determination for income replacement insurance shall:
(i) provide the criteria relied upon in making the adverse determination; and
(ii) disclose that a copy of the criteria will be provided free of charge upon request.
(b) If an adverse benefit determination is based on medical necessity, experimental treatment, or similar exclusion or limit, an insurer shall provide either:
(i) an explanation of the scientific or clinical judgment for the determination that applies the terms of the plan to the insured's medical circumstances; or
(ii) a statement that the explanation in Subsection (3)(b)(i) will be provided free of charge upon request.
(5) An adverse benefit determination for a claim involving urgent care shall:
(a) provide written or electronic notification to the claimant no later than three days after an oral notification; and
(b) provide a description of the expedited review process applicable to each claim.

R590-192-8. Minimum Standards for Prompt, Fair, and Equitable Benefit Determination and Settlement.
(1)(a) A benefit determination time period begins once an insurer receives a claim, regardless of whether all necessary information was filed with the original claim.
(b) If an insurer requires an extension due to a claimant's failure to submit necessary information, the time period for making a decision is tolled from the date the notice is sent to the claimant through:
(i) the date the claimant provides the necessary information; or
(ii) 48 hours after the end of the time period for the claimant to provide the additional information.
(2)(a) When a claim involves urgent care, an insurer shall notify a claimant of the insurer's benefit decision as soon as possible, considering the medical exigencies of the situation, but no later than 72 hours after receipt of the claim.
(b) An insurer shall determine whether a claim is urgent based on the information provided by the claimant.

(c) If a claimant does not provide sufficient information for an insurer to make a decision, the insurer must notify the claimant as soon as possible, but not later than 24 hours after receipt of the claim, and specify the information that is required.

(d) A claimant shall be given reasonable time, but not less than 48 hours, to provide the required information.

(e) An insurer shall notify a claimant of the insurer's decision as soon as possible, but not later than 48 hours after the earlier of:

(i) the insurer's receipt of the requested information; or

(ii) the end of the time given to the claimant to provide the information.

(3)(a) A reduction or termination of concurrent care during treatment is considered an adverse benefit determination.

(b) Before a reduction or termination of concurrent care occurs, an insurer shall provide a claimant notice, with sufficient time to appeal and receive a decision on the adverse benefit determination.

(c)(i) A claimant may request an extension of concurrent care beyond what is approved.

(ii) If a request for an extension is made at least 24 hours before the end of the concurrent care, the insurer shall notify the claimant of the insurer's decision as soon as possible, but not later than 24 hours after receipt of the request.

(iii) If the request for extension does not involve urgent care, the insurer shall notify the claimant of the insurer's benefit decision using the response times for a post-service claim.

(4)(a) An insurer shall notify a claimant of the insurer's pre-service benefit decision within 15 days of receipt of the request for care.

(b)(i) If an insurer cannot make a decision within 15 days due to circumstances beyond the insurer's control, such as late receipt of medical records, the insurer may extend the time up to 15 additional days.

(ii) If an insurer chooses to extend up to 15 days, the insurer shall notify the claimant before the expiration of the original 15 days.

(c) If an extension is due to a claimant's failure to submit necessary information, the notice of extension shall:

(i) state what information the claimant must submit; and

(ii) give the claimant at least 45 days to submit the requested information.

(d) If a pre-service claim determination is made and the medical care is rendered, the claim shall be processed according to the time requirements of a post-service claim.

(5)(a) For a post-service claim, an insurer shall notify a claimant of the insurer's benefit decision within 30 days of receipt of a notice of loss.

(b)(i) If an insurer is unable to make a decision within 30 days due to circumstances beyond the insurer's control, such as late receipt of medical records, the insurer may extend the time up to 15 additional days.

(ii) If an insurer chooses to extend up to 15 days, the insurer shall notify the claimant before the expiration of the original 30 days.

(c) If an extension is due to a claimant's failure to submit necessary information, the notice of extension shall:

(i) state what information the claimant must submit; and

(ii) give the claimant at least 45 days to submit the requested information.

(6) An insurer offering a health benefit plan shall provide continued coverage for an ongoing course of treatment pending the outcome of an internal appeal.

(7) Except for a grandfathered individual health benefit plan as defined in 45 CFR 147.140, an insurer offering an individual health benefit plan shall provide only one level of internal appeal before the final determination is made.

R590-192-9. Additional Standards for Prompt, Fair, and Equitable Benefit Determination and Settlement for Income Replacement Insurance.

(1) An insurer shall notify a claimant of an adverse benefit determination of an income replacement insurance benefit within 45 days of receipt of a claim.

(a)(i) If an insurer is unable to make a decision within 45 days due to circumstances beyond the insurer's control, the insurer may extend the time up to 30 additional days.

(ii) If an insurer chooses to extend up to 30 days, the insurer shall notify the claimant before the expiration of the original 45 days.

(iii) The notification shall include:

(A) the circumstances requiring the extension; and

(B) the date by which the insurer expects to render a decision.

(b)(i) If an insurer cannot render a decision within the first 30-day extension due to circumstances beyond the insurer's control, the insurer may extend the time up to 30 additional days.

(ii) If an insurer chooses to extend up to 30 days, the insurer shall notify the claimant before the expiration of the first 30-day extension.

(iii) The notification shall include:

(A) the circumstances requiring the extension; and

(B) the date by which the insurer expects to render a decision.

(c) Each notice of extension shall explain:

(i) the basis for the extension;

(ii) each unresolved issue that prevents a decision on the claim;

(iii) the information needed to resolve each unresolved issue; and

(iv) that the claimant is given at least 45 days to provide the information.

R590-192-10. Unfair Claim Settlement Practices.

The commissioner finds that the following acts or general business practices are unfair claim settlement practices and are misleading, deceptive, unfairly discriminatory, overreaching, or an unreasonable restraint on competition:

(1) concealing from or failing to fully disclose to a claimant a benefit, limitation, exclusion, coverage, or other relevant provision of a policy under which a claim is presented;

(2) denying or threatening to deny a claim, rescinding, canceling, or threatening to rescind or cancel coverage under a policy for any reason that is not clearly described in a policy as a reason for denial, cancellation, or rescission;

(3) refusing to settle a claim without conducting a reasonable investigation;

(4) denying or paying a claim without:

(a) providing a notification or an explanation of benefits describing the exclusion or benefit; and

(b) explaining how the denial or payment is calculated;

(5) failing to provide a claimant a written explanation of the evidence of an investigation or the claim file materials supporting a denial of a claim based on misrepresentation or fraud, if misrepresentation or fraud is the basis for the denial;

(6) compensating an employee, producer, or contractor an amount based on savings to the insurer due to denying or reducing payment of a claim, unless the compensation relates to the discovery of a billing or processing error;

(7) failing to pay a claim following receipt of a proof of loss if liability is reasonably clear under one coverage to influence settlement:

(a) under another portion of the policy; or

(b) under another policy;

(8) advising a claimant not to obtain the services of an attorney or other advocate, or suggesting a claimant will receive less money if an attorney is used to:

(a) pursue a claim; or

(b) advise on the merits of a claim;

(9) misleading a claimant about applicable statutes of limitation;

(10) deducting from a claim payment made under one policy the premium owed by the claimant on another policy, unless the claimant consents;

(11) failing to pay a claim on the basis that responsibility for payment of the claim should be assumed by someone else, except as provided by a policy provision;

(12) issuing a check or draft in partial settlement that contains language that releases an insurer from total liability;

(13) refusing to provide a written basis for the denial of a claim upon demand of a claimant;

(14) refusing to pay a reasonable incurred expense to a claimant if the expense resulted from a delay, prohibited by this rule, in a claim settlement or claim payment;

(15) failing to pay interest at the legal rate under Title 15, Chapter 1, Interest:

(a) on an amount that is overdue and unpaid within 20 days of completing an investigation; or

(b) to a health care provider on an amount that is overdue under Section 31A-26-301.6;

(16) failing to provide a claimant with an explanation of benefits; and

(17) for a health benefit plan, failing to:

(a) permit a claimant to review the claim file and present evidence as part of the claim and appeal process;

(b) provide a claimant, at no cost, new or additional evidence considered, relied upon, or generated by the insurer in connection with the claim; or

(c) ensure that all claims and appeals are adjudicated in an independent and impartial manner.

R590-192-11. Severability.

If any provision of this rule, Rule R590-192, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: insurance law
Date of Last Change: 2023[~~December 8, 2011~~]
Notice of Continuation: June 10, 2019
Authorizing, and Implemented or Interpreted Law: 31A-1-301; 31A-2-201; 31A-2-204; 31A-2-308; 31A-21-312; 31A-26-303

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	**R590-248**	**Filing ID: 55513**

Agency Information

1. Department:	Insurance
Agency:	Administration
Room number:	Suite 2300
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO Box 146901
City, state and zip:	Salt Lake City, UT 84114-6901
Contact persons:	

Name:	**Phone:**	**Email:**
Steve Gooch	801-957-9322	sgooch@utah.gov

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

General Information

2. Rule or section catchline:

R590-248. Mandatory Fraud Reporting Rule

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

This rule is being repealed because Section 31A-31-110 was amended by H.B. 410 (2023 General Session) to incorporate a process for the mandatory reporting of a fraudulent insurance act, which is described in this rule.

Since the reporting process is now in statute, this rule is unnecessary.

4. Summary of the new rule or change:

This filing repeals this rule in its entirety.

Fiscal Information

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

A) State budget:

There is no anticipated cost or savings to the state budget.

The relevant fraud reporting requirements are now set forth in statute, and the move will not change how the Department of Insurance functions.

B) Local governments:

There is no anticipated cost or savings to local governments.

The changes do 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 relevant fraud reporting requirements are set forth in statute instead of by rule.

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 relevant fraud reporting requirements are set forth in statute instead of by 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***)**:**

There is no anticipated cost or savings to any other persons.

The relevant fraud reporting requirements are set forth in statute instead of by rule.

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 relevant fraud reporting requirements are set forth in statute instead of by rule.

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

Regulatory Impact Table

Fiscal Cost	**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
Total Fiscal Cost	**$0**	**$0**	**$0**
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
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

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

The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.

Citation Information

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

Subsection 31A-2-201(3)(a)	Section 31A-31-110	

Public Notice Information

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

A) Comments will be accepted until:	08/14/2023

9. This rule change MAY become effective on:	08/21/2023

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

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	**Date:**	06/29/2023

R590. Insurance, Administration.

[~~R590-248. Mandatory Fraud Reporting Rule.~~

~~R590-248-1. Authority.~~

~~This rule is promulgated pursuant to Section 31A-2-201(3)(a), which authorizes rules to implement the Insurance Code and 31A-31-110, which authorizes a rule to provide a process by which a person shall report a fraudulent insurance act.~~

~~R590-248-2. Purpose and Scope.~~

~~(1) The purposes of this rule are to:~~

~~(a) describe the required elements in a mandatory fraud report; and~~

~~(b) establish a reporting process for fraud reports.~~

~~(2) This rule applies to:~~

~~(a) all insurers doing the business of insurance in Utah; and~~

~~(b) all auditors employed by a title insurer doing the business of title insurance in Utah.~~

~~R590-248-3. Mandatory Elements of a Fraud Report.~~

~~A mandatory fraud report shall:~~

~~(1) be in writing;~~

~~(2) provide information in detail relating to:~~

~~(a) the fraudulent insurance act; and~~

~~(b) the perpetrator of the fraudulent insurance act; and~~

~~(3) state whether the person submitting the report of a fraudulent insurance act also reported the fraudulent insurance act in writing to:~~

~~(a) the attorney general;~~

~~(b) a state law enforcement agency;~~

~~(c) a criminal investigative department or agency of the United States;~~

~~(d) a district attorney; or~~

~~(e) the prosecuting attorney of a municipality or county; and~~

~~(4) state the agency to which the person reported the fraudulent insurance act.~~

~~R590-248-4. Mandatory Fraud Reporting Process.~~

~~(1) The following persons shall report a fraudulent insurance act to the commissioner if the person has a good faith belief on the basis of a preponderance of the evidence that a fraudulent insurance act is being, will be, or has been committed by:~~

~~(a) a person other than the person making the report:~~

~~(b) an insurer; or~~

~~(c) an auditor that is employed by a title insurer.~~

~~(2) An auditor employed by a title insurer shall report a fraudulent act to the title insurer and the title insurer shall report the fraudulent act in accordance with this subsection.~~

~~(3) An insurer shall submit mandatory fraud reports electronically.~~

~~(4) An insurer shall report a fraudulent insurance act by:~~

~~(a) submitting a report to the commissioner using the National Insurance Crime Bureau (NICB) fraud reporting system; or~~

~~(b) submitting a report directly to the commissioner using email sent to fraud@utah.gov.~~

~~R590-248-5. Penalties.~~

~~A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.~~

~~R590-248-6. Enforcement Date.~~

~~The commissioner will begin enforcing this rule 45 days from the rule's effective date.~~

~~R590-248-7. Severability.~~

~~If any provision or clause of this rule or its application to any person or situation is held 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.~~

~~KEY: insurance, mandatory fraud reporting~~
~~Date of Last Change: April 7, 2017~~
~~Notice of Continuation: December 21, 2018~~
~~Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-31-110~~]

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	**R592-15**	**Filing ID: 55514**

Agency Information

1. Department:	Insurance
Agency:	Title and Escrow Commission
Room number:	Suite 2300
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO Box 146901
City, state and zip:	Salt Lake City, UT 84114-6901
Contact persons:	

Name:	**Phone:**	**Email:**
Steve Gooch	801-957-9322	sgooch@utah.gov

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

General Information

2. Rule or section catchline:
R592-15. Schedule of Minimum Charges for Escrow Services
3. Purpose of the new rule or reason for the change:
This rule is being repealed because Section 31A-19a-209 was amended by H.B. 410 (2023 General Session) to remove the requirement to file a schedule of escrow charges with the Department of Insurance (Department). The Title and Escrow Commission approved this repeal in a 06/12/2023 meeting by a vote of 4 to 0.

4. Summary of the new rule or change:

The filing repeals this rule in its entirety.

Fiscal Information

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

A) State budget:

There is no anticipated cost or savings to the state budget.

Maintaining and posting online the list of escrow charges was performed by two Department employees as part of the normal course of their duties. It took minimal time and effort to perform, and that time and effort will be reallocated to other duties.

B) Local governments:

There is no anticipated cost or savings to local governments.

This rule did not apply to local governments.

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

There is no anticipated cost or savings to small businesses.

Under this rule, a title insurance agency was required to report to the Department any time they changed the price they charged to perform an escrow activity. The vast majority of title insurance agencies rarely changed this price and so rarely reported to the Department.

In cases where an agency did report an escrow rate change to the Department, it was by means of an email.

Any savings as a result of this repeal would be so minor as to be incalculable.

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

There is no anticipated cost or savings to non-small businesses.

Under this rule, a title insurer was required to report to the Department any time they changed the price they charged to perform an escrow activity. The vast majority of title insurers rarely changed this price and so rarely reported to the Department.

In cases where an insurer did report an escrow rate change to the Department, it was by means of an email.

Any savings as a result of this repeal would be so minor as to be incalculable.

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

There is no anticipated cost or savings to any other persons.

Under the rule, an individual title insurance producer who was not an employee of a title insurer or designated by a title agency was required to report to the Department any time they changed the price they charged to perform an escrow activity. The vast majority of individual title insurance producers rarely changed this price and so rarely reported to the Department.

In cases where an individual producer did report an escrow rate change to the Department, it was by means of an email.

Any savings as a result of this repeal would be so minor as to be incalculable.

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

There are no compliance costs for any affected persons. This rule is being repealed.

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

Regulatory Impact Table

Fiscal Cost	**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
Total Fiscal Cost	**$0**	**$0**	**$0**
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
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

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

The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.

Citation Information

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

Section 31A-2-404

Public Notice Information

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

A) Comments will be accepted until:	08/14/2023

9. This rule change MAY become effective on:	08/21/2023

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

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	**Date:**	06/29/2023

R592. Insurance, Title and Escrow Commission.

[~~R592-15. Schedule of Minimum Charges for Escrow Services.~~

~~R592-15-1. Authority.~~

~~This rule is promulgated by the Title and Escrow Commission pursuant to Section 31A-2-404.~~

~~R592-15-2. Purpose and Scope.~~

~~(1) The purpose of this rule is to establish procedures for filing a Schedule of Minimum Charges for Escrow Services pursuant to Section 31A-19a-209.~~

~~(2) This rule applies to a title insurer, an agency title insurance producer, and an individual title insurance producer who is not an employee of a title insurer or who is not designated to an agency title insurance producer that provides escrow services in Utah.~~

~~R592-15-3. Definitions.~~

~~Terms used in this rule are defined in Sections 31A-1-301, 31A-2-402, and 31A-19a-102. Additional terms are defined as follows:~~

~~(1) "Certification" means a statement that a filing complies with Utah laws and rules.~~

~~(2) "Charge" means a dollar amount charged for a service rendered by a title licensee.~~

~~(3) "Document preparation" means preparing or compiling documents in connection with an escrow service.~~

~~(4) "Electronic filing" or "file electronically" means:~~

~~(a) a filing submitted via the internet by a title insurer using the System for Electronic Rate and Forms Filings (SERFF); or~~

~~(b) a filing submitted via an email system by an agency title insurance producer or an individual title insurance producer.~~

~~(5) "Escrow charge" means a dollar amount charged for an escrow service shown in the Schedule of Minimum Charges for Escrow Services.~~

~~(6) "Escrow service" means a service related to a settlement of a real estate transaction.~~

~~(7) "File and use" means a filing can be used, sold, or offered for sale after it has been filed with the department.~~

~~(8) "File before use" means a filing can be used, sold, or offered for sale after it has been filed with the department, and a stated period of time has elapsed from the date filed.~~

~~(9) "Filer" means a person who submits a filing.~~

~~(10)(a) "Filing Objection Letter" means a letter issued by the commissioner when a review determines that the filing fails to comply with Utah laws and rules.~~

~~(b) The Filing Objection Letter may require correction of non-compliant items and request clarification or additional information pertaining to the filing.~~

~~(11) "Letter of Authorization" means a letter signed on behalf of a title licensee that gives an individual filing authority.~~

~~(12) "Minimum escrow fee" means the minimum amount that must be charged for escrow settlement services rendered.~~

~~(13) "Order to Prohibit Use" means an order issued by the commissioner that prohibits the use of a filing.~~

~~(14) "Other settlement service" means an additional service not specifically listed in the Schedule of Minimum Charges for Escrow Services.~~

~~(15) "Rejected" means a filing is:~~

~~(a) not submitted in accordance with Utah laws and rules;~~

~~(b) returned to the filer by the department, with the reasons for rejection; and~~

~~(c) not considered filed with the department.~~

~~(16) "Title licensee", for purposes of this rule, means a title insurance company, an agency title insurance producer, or an individual title insurance producer.~~

~~R592-15-4. Required Documents.~~

~~The following documents shall be used for each filing and are available on the department's website, https://insurance.utah.gov:~~

~~(1) "Transmittal Document for Agency Title Insurance Producer or Individual Title Insurance Producer"; and~~

~~(2) "Schedule of Minimum Charges for Escrow Services.~~

~~R592-15-5. General Filing Information.~~

~~(1)(a) A filing shall be accurate, consistent, complete, and contain all required documents for the filing to be processed in a timely and efficient manner.~~

(b) The commissioner may request additional information as necessary.

(2)(a) A filing that does not comply with this rule is rejected and returned to the filer.

(b) A rejected filing:

(i) is not considered filed with the department;

(ii) shall be submitted as a new filing; and

(iii) will be charged a new filing fee.

(3) Prior filings are not researched to determine the purpose of the filing.

(4) The department does not review or proofread every filing.

(a) A filing may be reviewed:

(i) when submitted;

(ii) as a result of a complaint;

(iii) during a regulatory examination or investigation; or

(iv) any time the department determines a review is necessary.

(b) When a Filing Objection Letter or Order to Prohibit Use is issued, a title licensee may be required to disclose the deficiencies to each affected consumer.

(5) Filing corrections.

(a) If the filing is in an open status, correction can be made at any time.

(b) If the filing is in a closed status, a new filing is required.

(c) The filer must reference the original filing in the filing description.

(6) When responding to a Filing Objection Letter or an Order to Prohibit Use, a filer shall comply with Section R592-15-9.

(7) A filer must notify the department when withdrawing a previous filing.

R592-15-6. Filing Requirements.

(1) The following shall electronically file a Schedule of Minimum Escrow Service Charges:

(a) a title insurer;

(b) an agency title insurance producer; and

(c) an individual title insurance producer who is:

(i) not an employee of a title insurer; or

(ii) not designated to an agency title insurance producer.

(2) Only an individual who is authorized to act on behalf of a title licensee may submit a filing.

(3)(a) An initial Schedule of Minimum Charges for Escrow Services filing is a file and use filing and is effective the day it is filed.

(b) A revised Schedule of Minimum Charges for Escrow Services filing is a file before use filing and is effective:

(i) 30 calendar days after the revised Schedule of Minimum Charges for Escrow Services is filed; or

(ii) a date specified by the filer that is later than 30 calendar days after the revised Schedule of Minimum Charges for Escrow Services is filed.

(4) Each filing must be submitted as an electronic filing via:

(a) email; or

(b) SERFF.

(5) A complete email filing consists of the following:

(a) an email naming the filer and stating that it is an escrow rate filing in the title of the email;

(b) a complete Transmittal Document for Agency Title Insurance Producer or Individual Title Insurance Producer, containing a complete filing description in the following order:

(i) Certification.

(A) A filer shall certify that a filing is complete and complies with Utah laws and rules.

(B) The filing shall include the following statement in the filing description: "BY SUBMITTING THIS FILING I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH UTAH ADMINISTRATIVE RULE R592-15 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES".

(C) A filing will be rejected if the certification is false, missing, or incomplete.

(ii) Indicate if the filing is:

(A) new;

(B) replacing or modifying a previous submission, describing the changes;

(C) previously rejected, with reasons for rejection and previous filing's submission date; or

(D) previously objected to or prohibited, with reasons for resubmission;

(c) a Schedule of Minimum Charges for Escrow Services, completed as follows:

(i) each blank field must be completed;

(ii) if a listed service is not performed by a title licensee, the field must show "N/A" or "Not Applicable"; and

(iii) the Schedule of Minimum Charges for Escrow Services may not be altered; and

(d) a Letter of Authorization.

(i) When the filer is not a title licensee, a Letter of Authorization from the title licensee shall be included with the filing.

(ii) The title licensee is responsible for ensuring that the filing complies with Utah laws and rules.

(e) Under Subsection 31A-19a-203(1)(e)(i), a rate filing fee shall be received by the department within five days of the electronic submission or the filing will be rejected.

(6) A complete SERFF filing consists of the following:

(a) a complete description section on the general information tab, presented in the following order:

(i) Certification.

(A) A filer shall certify that a filing is complete and complies with Utah laws and rules.

(B) The filing shall include the following statement in the filing description: "BY SUBMITTING THIS FILING I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH UTAH ADMINISTRATIVE RULE R592-15 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES".

(C) A filing will be rejected if the certification is false, missing, or incomplete.

(ii) Indicate if the filing is:

(A) new;

(B) replacing or modifying a previous submission, describing the changes;

(C) previously rejected, with reasons for rejection, and previous filing's submission date; or

(D) previously objected to or prohibited, with reasons for resubmission;

(b) a Schedule of Minimum Charges for Escrow Services completed as follows:

(i) attach the filing to the rate and rule schedule tab;

(ii) each blank field must be completed;

(iii) if a listed service is not performed by a title licensee, the field must show "N/A" or "Not Applicable"; and

~~(iv) the Schedule of Minimum Charges for Escrow Services may not be altered; and~~

~~(c) a Letter of Authorization.~~

~~(i) When the filer is not a title licensee, a Letter of Authorization from the title licensee shall be included with the filing.~~

~~(ii) The title licensee is responsible for ensuring that the filing complies with Utah laws and rules.~~

~~(d) Under Subsection 31A-19a-203(1)(e)(i), a rate filing fee shall be received by the department within five days of the electronic submission or the filing will be rejected.~~

~~R592-15-7. Charges.~~

~~(1) Only minimum escrow charges shown in the Schedule of Minimum Charges for Escrow Services shall be filed.~~

~~(2) Other settlement service charges will be used for services not specifically shown in the Schedule of Minimum Charges for Escrow Services.~~

~~(3) Other settlement service charges shall be filed as a per hour charge.~~

~~(4) Only document charges shown in the Schedule of Minimum Charges for Escrow Services shall be filed.~~

~~(5) Other services not specifically listed on the Schedule of Minimum Charges for Escrow Services may be provided if a justifiable charge is filed.~~

~~R592-15-8. Correspondence and Status Checks.~~

~~(1) To identify the original filing, the following information shall be provided:~~

~~(a) type of filing;~~

~~(b) date of filing; and~~

~~(c) submission method.~~

~~(2) A filer may request the status of its filing 60 days after the filing date.~~

~~R592-15-9. Responses.~~

~~(1) A response to a Filing Objection Letter shall include:~~

~~(a) a cover letter identifying the changes made; and~~

~~(b) revised documents with each change highlighted.~~

~~(2)(a) An Order to Prohibit Use becomes final 15 days after the date of the Order.~~

~~(b) Use of the filing shall be discontinued by the date specified in the Order.~~

~~(c) To contest an Order to Prohibit Use, the commissioner must receive a written request for a hearing no later than 15 days after the date of the Order.~~

~~(d) Once the Order to Prohibit Use has been issued, a new filing is required if the title licensee chooses to make the requested changes addressed in the original Filing Objection Letter.~~

~~R592-15-10. Severability.~~

~~If any provision of this rule, Rule R592-15, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.~~

~~KEY: title escrow filings~~
~~Date of Last Change: December 23, 2021~~
~~Notice of Continuation: March 30, 2021~~
~~Authorizing, and Implemented or Interpreted Law: 31A-2-404~~]

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	**R650-101**	**Filing ID: 55500**

Agency Information

1. Department:	Natural Resources
Agency:	Outdoor Recreation
Room number:	100
Building:	Department of Natural Resources
Street address:	1594 W North Temple
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 145680
City, state and zip:	Salt Lake City, Utah 84114-5680

Contact persons:

Name:	**Phone:**	**Email:**
Tara McKee	385-441-2702	tmckee@utah.gov
India Nielsen Barfuss	385-268-2570	indianielsen@utah.gov

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

General Information

2. Rule or section catchline:

R650-101. Procedures for Applications to Receive Funds from the Zion National Park Support Programs Restricted Account

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

This program has been moved from the Division of State Parks to the Division of Outdoor Recreation (DOR). DOR became a new agency on 07/01/ 2022.

When this rule existed under State Parks it was Rule R651-636.
(EDITOR'S NOTE: The proposed repeal of Rule R651-636 is under ID 55507 in this issue, July 15, 2023, of the Bulletin.)

4. Summary of the new rule or change:

This proposed rule updates references to various sections of the Utah Code.

It also updates references to the restricted account at issue: it is the "Zion National Park Support Programs Restricted Account," not the "Zion National Park Restricted Account."

Additionally, this rule eliminates a section that indicates DOR decides who can obtain a special license plate; the Motor Vehicle Act leaves that decision to the DMV, not DOR; makes clear that Section 79-7-303, not Section 41-1a-422, is the statute that specifies which entities are eligible to receive funding; and clarifies that applications shall be made to DOR on a form acceptable to DOR.

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 (moving this rule to DOR and making clarifications) and will have no impact on how the Department of Natural Resources functions or the parties this applies to.

B) Local governments:

This rule change 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 rule change will not have a fiscal impact on small businesses as this rule is clerical in nature (moving thi rule to DOR and making clarifications).

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

This proposed rule changes do not have a fiscal impact on non-small businesses nor will service be required of them to implement the amendments.

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 change will not have a fiscal impact on persons other than those listed above. This change is clerical in nature (moving the rule to DOR and making clarifications)

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. The changes simply add 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
Total Fiscal Cost	**$0**	**$0**	**$0**
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
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

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

The Executive Director of the Department of Natural Resources, Joel Ferry, has 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 79-7-303		

Public Notice Information

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

A) Comments will be accepted until:	08/14/2023

9. This rule change MAY become effective on:	08/21/2023
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, Division Director	**Date:**	06/02/2023

R650. Natural Resources, Outdoor Recreation.
R650-101. Procedures for Applications to Receive Funds from the Zion National Park Support Programs Restricted Account.
R650-101-1. Rulemaking Authority.

Subsection 79-7-303(c) states that, in accordance with Title 63G, Chapter 3, the Utah Administrative Rulemaking Act, the Division may make rules providing procedures and requirements for an organization to apply to the Division to receive a distribution from the Zion National Park Support Programs Restricted Account under Subsection 79-7-703(5).

R650-101-2. Application and Distribution Process.

The Division shall receive and distribute contributions to the Zion National Park Support Programs Restricted Account in accordance with Section 79-7-303. In conjunction with Zion National Park and the Utah Department of Natural Resources (DNR), an audit review of each project may be requested and performed by DNR or Division of Outdoor Recreation staff before any distribution.

R650-101-3. Distribution Requests.

All distribution requests shall be made via application to the Division and shall include the following documentation:

(1) A signed distribution request on an application form provided by and acceptable to the Division.

(2) A signed copy of any agreements or amendments to agreements that the requestor has with Zion National Park.

R650-101-4. Application Review and Approval.

The Division of Outdoor Recreation shall review and approve or deny applications for disbursement of funds from the Restricted Account.

KEY: outdoor recreation
Date of Last Change: 2023
Authorizing, and Implemented or Interpreted Law: 79-7-303

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	**R651-636**	**Filing ID: 55507**

Agency Information

1. Department:	Natural Resources
Agency:	State Parks
Street address:	1594 W North Temple
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 146001
City, state and zip:	Salt Lake City, UT 84114-6001

Contact persons:

Name:	**Phone:**	**Email:**
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov

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

General Information

2. Rule or section catchline:

R651-636. Procedures for Application to Receive Funds From the Zion National Park Restricted Account

3. Reason for this change:

This rule is moving from the Division of State Parks (DSP) to the Division of Outdoor Recreation (DOR) (Title R650); therefore, this rule is being repealed from the State Parks title (R651).

4. Summary of this change:

This rule is moving from the DSP to the DOR; therefore, this rule is being repealed in its entirety.
(EDITOR'S NOTE: The proposed new Rule R650-101 is under ID 55500 in this issue, July 15, 2023, of the Bulletin.)

Fiscal Information

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

A) State budget:

The repeal of this rule does not affect the state budget.

This rule is moving to the DOR and will have no effect on the DSP.

B) Local government:

The repeal of this rule does not affect the local governments.

This rule is moving to the DOR and will have no effect on the DSP.

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

The repeal of this rule does not affect the small businesses.

This rule is moving to the DOR and will have no effect on the DSP.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
The repeal of this rule does not affect the non-small businesses. This rule is moving to the DOR and will have no effect on the DSP.

E) Persons other than small businesses, non-small businesses, or state or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
The repeal of this rule does not affect the non-small businesses. This rule is moving to the DOR and will have no effect on the DSP.

F) Compliance costs for affected persons:
The repeal of this rule does not change compliance costs for affected persons. This rule is moving to the DOR and will have no effect on the DSP.

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
Total Fiscal Cost	**$0**	**$0**	**$0**
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
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:
The Executive Director of the Department of Natural Resources, Joel Ferry, has 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 79-4-404	Section 41-1a-422	

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:	08/14/2023

9. This rule change MAY become effective on:	08/21/2023
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:	Jeff Rasmussen, Director	**Date:**	06/22/2023

R651. Natural Resources, Parks and Recreation.

~~[R651-636. Procedures for Application to Receive Funds From the Zion National Park Restricted Account.~~

~~R651-636-1. Rulemaking Authority.~~

~~UCA, Section 63-11-67(6c), states that in accordance with Title 63G, Chapter 3, the Utah Administrative Rulemaking Act, the division may make rules providing procedures and requirements for an organization to apply to the division to receive a distribution, under Subsection (5).~~

~~R651-636-2. Restricted Account.~~

~~This rule, as stated in H.B. 348, which enacted 63-11-17 Utah Code Annotated 1953, (2008 General Session), and that supports the Zion National Park Support Programs Restricted Account, provides procedures and process to obtain a special license,~~

~~and indicates those who may be issued a special group license plate and the categories which apply.~~

~~**R651-636-3. Application Process.**~~

~~In order to receive funds from the Zions National Park Restricted Account, an applicant must be listed in a category found in Section 41-1a-422. The division shall receive and distribute voluntary contributions collected under Section 41-1a-422 in accordance with Section 63-11-67.~~

~~**R651-636-4. Distribution Requests.**~~

~~All distribution requests shall include the following documentation:~~

~~1. A signed and approved Zion National Park Donation Request form.~~

~~2. A signed copy of any agreement(s) and/or amendment(s) to agreements with Zions National Park.~~

~~3. In conjunction with Zions National Park and the Utah Department of Natural Resources (DNR), an audit review of each project may be requested and performed by DNR or Utah State Parks and Recreation staff.~~

~~**R651-636-5. Application Review and Approval.**~~

~~The Division of State Parks and Recreation will review and approve applications for disbursement of funds from the Restricted Account that is set up for receiving donations from those who are granted a Zion National Park Special Group License Plate.~~

~~**KEY: parks**~~
~~**Date of Last Change: March 26, 2009**~~
~~**Notice of Continuation: December 19, 2018**~~
~~**Authorizing, and Implemented or Interpreted Law: 79-4-404; 41-1a-422**~~**]**

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	**R654-1**	**Filing ID: 55457**

Agency Information

1. Department:	Natural Resources	
Agency:	Public Lands Policy Coordinating Office	
Room number:	Suite 320	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, Utah 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Kristopher R. Carambelas (Primary)	801-231-2896	kcarambelas@utah.gov
Laura Ault	801-550-7754	lauraault@utah.gov
Mark Boshell	385-290-8072	mboshell@utah.gov

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

General Information

2. Rule or section catchline:

R654-1. Archaeological Permits

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

The purpose of Rule R654-1 is to establish requirements for the issuance of archaeological survey and excavation permits for all lands owned or controlled by the state, its political subdivisions, and by the School and Institutional Trust Lands Administration, and to ensure compliance with permit provisions and the underlying rules and law.

The Public Lands Policy Coordinating Office (PLPCO) is submitting this filing because the 2021 Legislature moved PLPCO from the Governor's Office to the Department of Natural Resources.

Thus, Rule R694-1 is being repealed, and a new rule will be filed as Rule R654-1 under the Department of Natural Resources.
(EDITOR'S NOTE: The proposed repeal of Rule R694-1 is under ID 55443 in this issue, July 15, 2023, of the Bulletin.)

4. Summary of the new rule or change:

This proposed rule fulfills the requirement of Subsection 9-8-305(5) to: 1) establish survey methodology; 2) standardize report and data preparation and submission; 3) require other permit application information that the Public Lands Policy Coordinating Office finds necessary, including proof of consultation with the appropriate Native American tribe; 4) establish what training and experience is equivalent to a graduate degree; 5) establish requirements for a person authorized by Subsection 9-8-305(1)(b) to assist the principal investigator; 6) establish requirements for a principal investigator's employer, if applicable; and 7) establish criteria that, if met, would allow the PLPCO to reinstate a suspended permit.

As proposed, Rule R654-1 differs from Rule R694-1 by requiring archaeological survey and excavation permits to be submitted electronically (e.g., email, folder sharing, etc.), rather than having multiple hard copies delivered by the United States Postal service or a shipping company. This change is expected to save applicants and PLPCO time and money and reduce the carbon footprint of the application process.

The proposed new rule further clarifies the requirements of Subsection 9-8-305(2)(b), which allows applicants to submit evidence of training and experience equivalent to a graduate degree in anthropology, archaeology, or history.

This change is also expected to save applicants and PLPCO time and money by providing more detail about the evidence needed to meet the in-lieu of requirement. It will help applicants to better determine whether they are qualified candidates for a permit or not.

Per Subsection 9-8-305(5)(e), the proposed new rule lists requirements for "Field Directors" and "Monitors". These requirements are equivalent to those of federal land-managing agencies in the state, and they will allow better coordination of efforts when an archaeological survey or excavation area encompasses both state and federal lands and requires compliance with both Section 9-8-404 and 54 U.S.C. Sec 306108.

Finally, the proposed new rule allows for the curation agreement requirement to be waived when a principal investigator conducts research that does not involve the collection of artifacts. This is typically the case for graduate students who are conducting thesis or dissertation research and not-for-profit organizations undertaking scholarly research. The waiver will save them $50 to $65 annually.

The proposed new rule reserves for a future amendment "requirements for a principal investigator's employer" and "… proof of consultation with the appropriate Native American tribe." In PLPCO's estimation and experience, the former would be applicable in few if any instances, have little to no impact on surveys or excavations, and likely be unenforceable. For the latter, PLPCO recognizes that the word "consultation" has a specific meaning in the context of state and federal cultural resources management. The state acknowledges the sovereignty of Utah's eight federally recognized American Indian tribes and the government-to-government relationship it has with these tribes.

Consultation with tribal officials, when it is required, must be conducted by authorized state officials (e.g., Governor's Executive Order EO/2014/005: "Executive Agency Consultation with Federally Recognized Indian Tribes"). Individuals authorized to engage in these consultations would do so as designated agency representatives, not as permitted archaeologists.

Moreover, all archaeological surveys and excavations permitted by PLPCO are subject to compliance with Section 9-8-404, which does not have a requirement for tribal consultation.

Fiscal Information

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

A) State budget:

Nominal costs and savings. By removing the requirement for hard-copy permit applications and replacing it with a requirement for electronically submitted applications, PLPCO will no longer need to physically store, and eventually dispose of these paper documents.

PLPCO will meet its archiving requirement by saving these applications electronically in perpetuity.

B) Local governments:

No costs or savings, because no local government has an archaeologist on staff who needs to obtain an archaeological permit.

However, if a local government does hire an archaeologist who needs to obtain a PLPCO permit, it will save the costs of printing and mailing a hard-copy application to PLPCO. Cost savings will be nominal and difficult to quantify.

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

No costs, but potential savings. Small businesses would no longer be required to print and mail three hard copies to PLPCO.

The amount of time required to complete applications is the same, whether they are delivered electronically or printed and mailed.

The cost savings are expected to be nominal and difficult to quantify.

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

No costs, but potential savings. Non-small businesses would no longer be required to print and mail three hard copies to PLPCO.

The amount of time required to complete applications is same, whether they are delivered electronically or printed and mailed.

The cost savings are expected to be nominal and difficult to quantify.

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***)**:**

Nominal costs; potential savings of $50 to $65 annually.

A person rather than a small business would no longer incur the costs of printing and mailing the requisite number of hard-copy applications.

Some applicants only need a permit to access the State Historic Preservation Office's GIS systems and records database; they do not intend to collect archaeological specimens.

The rule allows these applicants to be exempted from the curation agreement requirement. Currently, the Natural History Museum of Utah and the USU Eastern Prehistoric Museum charge $65 and $50, respectively, for annual curation permits. This would be considered a substantial savings for a graduate student or not-for-profit research organization conducting desktop research only.

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

For people and entities listed in Boxes 5C, D, and E, except for those that may be exempt in E, the annual cost of a curation agreement ranges from $50 (USU Eastern Prehistoric Museum) to $65 (Natural History Museum of Utah).

Unlike licensure requirements for other professions, such as engineering or land surveying (e.g., https://dopl.utah.gov/engineering/laws-and-rules/), PLPCO does not charge a fee to obtain either a survey or excavation permit.

Applicants must allocate some time to completing permit applications, but this cost is inestimable due to many factors, such as the amount of time spent preparing the applications, whether a principal or senior-level permittee prepares the application vs. a secretary or administrative assistant, etc.

PLPCO receives about 80 permit applications annually; most applications are for permits to conduct archaeological surveys. Survey permits are typically valid for three years. Of these, between 70 and 75 applications must meet the curation agreement requirement, and PLPCO estimates this number is split equally between small and non-small businesses.

For the purposes of the table in 5G below, PLPCO estimates that 37 small and 37 non-small businesses will obtain an annual curation agreement at an average estimable cost of $57.50 (i.e., $65 + $50/2=$57.50). The sum of these purchases is listed in the respective cells below.

PLPCO does not know if the cost for curation agreements will increase in FY2024 and FY2025. This requirement has been in place since at least 2012.

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	$2,127.50	$2,127.50	$2,127.50
Non-Small Businesses	$2,127.50	$2,127.50	$2,127.50
Other Persons	$0	$0	$0
Total Fiscal Cost	**$4,255**	**$4,255**	**$4,255**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**($4,255)**	**($4,255)**	**($4,255)**

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

The Executive Director of 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 9-8-305	Subsection 9-8-305(5)	

Incorporations by Reference Information

7. Incorporations by Reference:

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

Official Title of Materials Incorporated (from title page)	Code & Standards: Code of Conduct and Standards of Research Performance
Publisher	Register of Professional Archaeologists
Issue Date	2020

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:	08/15/2023

9. This rule change MAY become effective on:	09/01/2023
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:	Joel Ferry, Executive Director	**Date:**	05/17/2023

R654. Natural Resources, Public Lands Policy Coordinating Office.

R654-1. Archaeological Permits.

R654-1-1. Authority.

This rule is authorized by Subsection 9-8-305(5).

R654-1-2. Purpose.

The purpose of this rule is to establish requirements for the issuance of archaeological survey and excavation permits for any lands owned or controlled by the state, its political subdivisions, or by the School and Institutional Trust Lands Administration, and to insure compliance with permit provisions and the underlying rules and law.

R654-1-3. Definitions.

(a) Terms used in this rule are defined in Section 9-8-302.

(b) In addition:

(i) "Full-time professional experience" means work within a position requiring responsibility for progress and completion of a project involving archaeological resources.

(ii) "One year", as used in Subsections 9-8-305(2)(a)(iii) and (iv), means 2,080 hours in the aggregate.

R654-1-4. Qualifications of Permit Holders.

(a) Permits will be issued to those individuals who qualify as a principal investigator, except for those who may otherwise qualify but who have had a permit suspended or revoked pursuant to Section R654-1-11.

(b) As authorized by Subsection 9-8-305(2)(b), a principal investigator may submit evidence of training and experience equivalent to a graduate degree in anthropology, archaeology, or history by:

(i) Demonstrating the ability to design and execute a research project in anthropology, archaeology, or history that includes the following.

(A) All the research design elements specified in Subsections 9-8-305(3)(a)(i)(A) through (G).

(B) The collection and analysis of information.

(C) The presentation of results in an approved and reviewed format.

(D) The subsequent curation of specimens in an appropriate curation facility.

(E) Evidence that the applicant served as the principal or co-principal investigator for the entire research project.

(ii) Possessing a graduate degree in a closely related discipline that included thesis or dissertation research germane to anthropology, archaeology, or history.

(c)(i) As authorized by Subsection 9-8-305(2)(iii), applicants for a permit may submit evidence of training related to proper methodologies for field procedures, laboratory analysis, and reporting within projects involving archaeological resources.

(ii) An applicant for a permit wishing to submit evidence pursuant to Subsection R654-1-4(c)(i) must demonstrate that the training was of a sufficient duration and a sufficiently broad scope of subject matter to substitute for at least one year of full-time professional experience.

(d) Experience in Utah prehistoric or historic archaeology shall include basic field, associated laboratory analysis, and reporting work based within any portion of the general physiographic and cultural regions found within the state boundaries.

R654-1-5. Application for Permit to Survey.

(a) A person who wishes to obtain a permit to survey shall obtain and complete an application form and submit the form and all other information required by the form to the Public Lands Policy Coordinating Office.

(b) Other required information may include:

(i) Projects initiated under previous permits issued by the state that remain incomplete as of the date of application.

(ii) The applicant's employer or the name of the applicant's business, if self-employed.

(iii) A copy of an agreement to curate with an authorized curation facility in the name of the applicant or the applicant's employer.

R654-1-6. Application for Permit to Excavate.

(a)(i) A person who wishes to obtain a permit to excavate shall submit a completed application form and all other information required by the form electronically to the Public Lands Policy Coordinating Office.

(ii) The application form shall require the applicant to provide the information required by Subsection 9-8-305(3)(a).

(b) The Public Lands Policy Coordinating Office shall forward, electronically, a copy of the form and all other information requested to the Utah State Historic Preservation Office and the agency.

(c) If the Public Lands Policy Coordinating Office has delegated the authority to issue a permit to excavate to another state agency pursuant to Section R654-1-8, a person who wishes to obtain a permit to excavate on the lands owned by that agency shall submit an application to that agency.

R654-1-7. Review of Permit Applications.

(a) The Public Lands Policy Coordinating Office may, at its sole discretion, seek the advice of one or more principal investigators as part of the review of an application for a permit to survey or a permit to excavate.

(b) Principal investigators who are authorized to provide advice on permits must hold a valid permit issued by the Public Lands Policy Coordinating Office and must volunteer for the task.

(c) The Public Lands Policy Coordinating Office shall keep a list of those principal investigators who volunteer, and shall make use of their services on a rotational basis, except that the Office shall avoid using the advice of any particular volunteer if a conflict of interest would thereby arise.

(d)(i) The Public Lands Policy Coordinating Office shall notify the applicant within 30 calendar days whether or not the application is approved.

(ii) This time may be extended if additional information is required from the applicant.

R654-1-8. Delegation of Authority to Issue a Permit to Excavate.

(a) An agency that owns land within the state may request the delegation of the authority to issue permits to excavate for the lands it owns.

(b) The agency shall request the delegation in writing and signed by the agency's authorized representative.

(c) The request in Subsection R654-1-8(b) shall contain the proposed terms and conditions, including the information required by Subsection 9-8-305(3)(c)(ii) and agreement with the following conditions:

(i) each person approved for a permit to excavate by the agency shall hold a valid permit to survey from the Public Lands Policy Coordinating Office at all times before and including the expiration date of the permit, including any extensions;

(ii) the agency shall consult with the Utah State Historic Preservation Office regarding the research design of the proposed project before issuing the permit;

(iii) permits issued by the agency pursuant to delegation shall contain the provisions required by Subsection R654-1-10(a), and, for purposes of compliance and enforcement of Subsection R654-1-10(a), a permit issued by the agency shall be considered a permit issued by the Public Lands Policy Coordinating Office;

(iv) the agency shall refer issues about performance of work by the permit holder to the Public Lands Policy Coordinating Office through the process described in Section R654-1-11, and shall agree to amend, suspend, or revoke a permit according to the final results of that process, and to reinstate a permit only with the concurrence of the Public Lands Policy Coordinating Office after compliance with Section R654-1-12;

(v) the agency and the Public Lands Policy Coordinating Office shall review the operations of the delegation agreement at least annually; and

(vi) the Public Lands Policy Coordinating Office may revoke the delegation at any time without cause, as provided by Subsection 9-8-305(3)(d).

(d) The agency and the Public Lands Policy Coordinating Office shall formalize the terms of the delegation through a Memorandum of Understanding.

R654-1-9. Time Period for Permits.

(a) A Permit to Survey shall be effective for either:

(i) three years from the date of issuance specified in the permit; or

(ii) for any other period:

(A) as part of the response to an action initiated under Section R654-1-11; or

(B) for other administrative needs.

(b)(i) A Permit to Excavate shall be effective for the amount of time reasonably necessary to complete the research design's excavation, laboratory analysis, reporting, and curation, as specified by a date of expiration in the Permit.

(ii) The time period of a Permit to Excavate may be extended, upon a showing of good cause to the Public Lands Policy Coordinating Office, for a period to be specified by a new expiration date.

R654-1-10. Permit Provisions.

(a) The following provisions shall be included within each permit issued by the Public Lands Policy Coordinating Office:

(i) Professional and Ethical Standards.

(A) Incorporation by Reference. This rule incorporates by reference the Register of Professional Archaeologists Code of Conduct and Standards of Research Performance in effect as of 2020 with no exceptions.

(B) If any provision of the Code of Conduct or Standards of Research Performance is altered, superseded, or otherwise affected in any manner by this rule or other law, then the rule and law shall take precedence, and permit holders shall comply with the rule or law.

(ii) Persons Employed by the Principal Investigator to Assist in the Field or Laboratory.

By engaging in any field or laboratory work under any permit issued by the Public Lands Office, the principal investigator shall insure that persons hired or otherwise engaged to perform such work, or supervise field or laboratory work in the principal investigator's absence, are fully qualified to perform such work, and shall comply with the Code of Conduct and Standards of Research Performance as required by Subsection R654-1-10(a)(i).

(A) Field Directors.

Field directors report to the principal investigator and are responsible for overseeing the work of field technicians, preparing site forms and technical reports, and making initial evaluations and recommendations for site significance, effect, and treatment. Requirements for field directors include the following.

(1) Formal education resulting in a baccalaureate degree in anthropology, archaeology, history, or a closely related discipline; or, at least 30 months of equivalent training and experience including increasing responsibilities leading up to responsibilities equivalent to those of a proposed project.

(2) Competence in recording, collecting, handling, analyzing, evaluating, and reporting cultural resource data relative to the type and scope of work proposed, as evidenced by previous experience or relevant training.

(3) Demonstrated ability to supervise activity of the type and scope proposed.

(4) Completion of at least 4 months of professional cultural resource management experience consisting of laboratory or field work in similar cultural contexts and environmental settings. This may be part of the experience required in Subsection R654-1-10(ii)(A)(1).

(5) At least 12 months of experience in research concerning Utah prehistoric or historic archaeology. This experience may be part of the experience required in Subsections R654-1-10(a)(ii)(A)(1) and R654-1-10(a)(ii)(A)(4).

(B) Monitors.

Project excavation or trenching monitors must meet the same minimum qualifications as field directors, save for the supervisory requirement of Subsection R654-1-10(a)(ii)(A)(3). Monitors must also have experience in excavation methods, either through an approved field school or through at least 30 days supervised experience in excavation.

(iii) Principal Investigators who are Employed by Others.

(Reserved).

(iv) Survey Methodologies.

Commensurate with a project's scope of work, and as directed by an agency, principal investigators shall make a reasonable and good-faith effort to identify archaeological resources within areas designated for survey. Appropriate methods include the following.

(A) Taking into account the archaeological guidance published in the Utah State Historic Preservation Office's December 2022 version of Cultural Resource Compliance Guidance.

(B) Reviewing existing information on archaeological resources and historic property, including information available from the Utah State Historic Preservation Office's geographic information system and records data base; primary historical resources such as General Land Office records, various types of maps, aerial imagery, and other documents; and relevant secondary historical resources.

(C) Interviewing individuals who likely know of archaeological resources and historic property in the area.

(D) Conducting pedestrian survey with transects spaced no more than 15 meters (49.2 ft.) apart, unless greater spacing is approved through consultation between the agency and the Utah State Historic Preservation Office.

(v) Report and Data Format and Standards.

(A) Reports of projects undertaken pursuant to permits issued by the Public Lands Policy Coordinating Office shall conform to the format and standards that are attached to and made an integral part of the permit.

(B) The Public Lands Policy Coordinating Office may amend the format and standards at any time during the time period of a permit; however, the permit holder shall have the option to continue to use the original format and standards for projects that are well into the reporting phase.

(C) Reports for individual projects and sites must contain an identification number obtained from the Utah State Historic Preservation Office before the commencement of fieldwork.

(D) Reports for individual projects must list all individuals who served in a supervisory capacity on the project.

(vi) Completion of Reports in a Timely Manner.

(A) Reports of projects undertaken pursuant to any permit issued by the Public Lands Policy Coordinating Office shall be completed and submitted to the agency and the Utah State Historic Preservation Office in a timely manner.

(B)(1) An agency may establish the parameters of timely manner through an agreement with the Utah State Historic Preservation Office and the Public Lands Policy Coordinating Office.

(2) If an agreement has been finalized, the permit shall reference the agreement as the requirement for submission of reports for projects involving that agency's lands.

(3) For purposes of the requirements of Subsection R654-1-10(a)(vi)(B)(1), the term agency shall include an agency or other entity of the federal government.

(vii) Curation of Specimens.

(A)(1) The holder of any permit issued by the Public Lands Policy Coordinating Office shall either hold a valid agreement with an authorized curation facility, or be covered under the authority of a curation agreement held by the employer of the permit holder, at all times during the time period of the permit.

(2) The Public Lands Policy Coordinating Office may, at its sole discretion, waive the curation agreement requirement when a permit to survey is intended for research purposes that do not include collection, destructive testing, or any other physical interaction with an archaeological artifact or site.

(B) The holder of any permit issued by the Public Lands Policy Coordinating Office shall keep the Office notified of any changes to the expiration date of the curation agreement required by Subsection R654-1-10(a)(vii)(A), or a change in employment.

(C) All specimens collected pursuant to any permit issued by the Public Lands Policy Coordinating Office shall be deposited with the appropriate curation facility in a timely manner.

(viii) Discovery of Human Remains.

Any person working under the authority of any permit issued by the Public Lands Policy Coordinating Office who discovers human remains shall stop further activity in the area and immediately notify the landowner, the appropriate law enforcement agency, and the Utah State Historic Preservation Office, as required by Sections 9-9-403 and 76-9-704.

(ix) Access to Sites and Site Records.

The holder of any permit issued by the Public Lands Policy Coordinating Office agrees to cooperate with the Office by allowing authorized Office employees access, at any reasonable time, to survey and excavation project areas and to relevant project records to assure compliance with the law, rules, or permit provisions, subject to the provisions of other law, regulation, or rule.

(x) Compliance with Law, Rule, and Permit Conditions.

(A) Any person working under the authority of a permit issued by the Public Lands Policy Coordinating Office shall comply with all laws, rules, and permit conditions.

(B) Failure to comply may result in amendments to or the suspension or revocation of the permit, in addition to any other penalties authorized by law or rule.

(xi) The holder of the permit shall keep the Public Lands Policy Coordinating Office apprised of any changes in the permittee's employment or business address and phone number, and changes in other business information as the Office may require.

(b) Permits issued by the Public Lands Policy Coordinating Office may include such other provisions as the Office may consider necessary based on an individual's application.

(c) Permits to excavate issued by the Public Lands Policy Coordinating Office shall require that the permit holder also hold a valid permit to survey issued by the Public Lands Policy Coordinating Office at all times before and including the expiration date of the permit to excavate, including any extensions.

R654-1-11. Amendment, Suspension, or Revocation of Permits.

(a)(i) Permits may be amended, suspended, or revoked pursuant to the terms of this rule.

(ii) Permits may be amended, suspended, or revoked for violations of law, rule, or permit provisions, or upon a finding by the Public Lands Policy Coordinating Office that a permit holder is unfit to hold a permit due to a judicial or administrative determination concerning the character or competence of the individual.

(b)(i) Any agency may file a petition with the Public Lands Policy Coordinating Office concerning the work performed under the provisions of any Permit to Survey or Permit to Excavate if the agency believes the work has been done in a manner that is contrary to law, rule, or permit provisions.

(ii) The petition shall state with specificity the facts and circumstances involved and the law, rule or permit provision at issue, and shall be signed by the agency's authorized representative.

(iii) Each agency shall keep the Public Lands Policy Coordinating Office informed of the name of the agency's authorized representative on an ongoing basis.

(c) The Public Lands Policy Coordinating Office shall investigate the issues raised by the petition.

(d) The Public Lands Policy Coordinating Office may initiate investigations into a permit holder's compliance with law, rule, and permit provisions at its sole discretion, and may initiate a proceeding to amend, suspend, or revoke a permit as a result of those investigations.

(e)(i) The Public Lands Policy Coordinating Office may, at its sole discretion, seek the advice of one or more principal investigators as part of an investigation initiated by either petition or itself.

(ii) Principal investigators who are authorized to provide this advice must hold a valid permit issued by the Public Lands Policy Coordinating Office and must volunteer for the task.

(iii) The Public Lands Policy Coordinating Office shall keep a list of those principal investigators who volunteer, and shall make use of their services on a rotational basis, except that the Office shall avoid using the advice of any particular volunteer if a conflict of interest would thereby arise.

(f) The Public Lands Policy Coordinating Office may choose to use either informal or formal hearings as authorized by Subsection 63G-4-201(a)(v).

(g) The Public Lands Policy Coordinating Office may resolve issues raised by a petition or by its own proceedings by methods that include:

(i) dismissing the petition or otherwise terminating the proceedings;

(ii) amending any of the provisions of an existing permit;

(iii) imposing new conditions within an existing permit;

(iv) suspending the permit; or

(v) revoking the permit.

(h) The Public Lands Policy Coordinating Office will immediately inform the Utah State Historic Preservation Office if a permit is suspended or revoked.

(i) The final notice of suspension or revocation shall state the reasons for the suspension or revocation.

R654-1-12. Reinstatement of Permits.

(a) The final notice of suspension or revocation from a proceeding held pursuant to Section R654-1-11 shall specify the conditions for reinstatement of the permit.

(b) The holder of the suspended or revoked permit may request reinstatement by submitting a written request to the Public Lands Policy Coordinating Office indicating the reasons the reinstatement should be granted.

(c) The Public Lands Policy Coordinating Office may require additional information.

(d) Reinstatement shall be granted at the sole discretion of the Public Lands Policy Coordinating Office.

(e) A principal investigator who has had a permit suspended or revoked shall not be eligible for another permit until the principal investigator becomes eligible for reinstatement of the suspended or revoked permit.

R654-1-13. Waiver of Provisions.

(a) The Public Lands Policy Coordinating Office may grant a waiver of the provisions of this rule, except for statutory provisions, in the interest of fairness, impossibility of performance, or other exigent or extenuating circumstances.

(b) Subsection R654-1-13(a) is to be employed to allow the Public Lands Policy Coordinating Office to deal with generally unforeseen circumstances, and should not be employed to grant broad scale general exceptions to the requirements of Rule R654-1.

R654-1-14. Confidentiality.

(Reserved).

KEY: archaeological permits
Date of Last Change: 2023
Authorizing, and Implemented or Interpreted Law: 9-8-305

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal and Reenact		
Rule or Section Number:	**R657-4**	**Filing ID: 55466**

Agency Information

1. Department:	Natural Resources	
Agency:	Wildlife Resources	
Room number:	Suite 2110	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146301	
City, state and zip:	Salt Lake City, UT 84114-6301	
Contact persons:		
Name:	**Phone:**	**Email:**
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R657-4. Possession and Release of Pen-reared Gamebirds

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

This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (Division) rule regulating the possession and release of pen-reared gamebirds.

4. Summary of the new rule or change:

Pen-reared gamebird related rules sections are currently distributed across six Division rules and one Department of Agriculture and Food (UDAF) rule. This recommendation is to update rules to align conflicting rule language across agencies, simplify Division rule by consolidating pen-reared gamebird provision into a single rule, shift regulation of commercial gamebirds growers to the UDAF, and update disease testing requirements to meet challenges of emerging disease.

The proposed amendments will repeal and reenact Rule R657-4 and rename the rule "Possession and Release of Pen-reared Gamebirds".

The amendments will also: 1) define "gamebirds"; 2) define permitting requirements for possession and release separately; 3) establish UDAF as the agency regulating commercial gamebird growers; 4) establish the Division as the agency regulating personal use of pen-reared gamebirds and sets requirements; 5) establish the Division as the agency regulating release of pen-reared gamebirds and sets requirements; 6) establish standards for disease testing; 7) incorporate Section R657-20-26, Use of Pen-reared Game Birds for Meets, Trials and Training; 8) incorporate Rule R657-22, Commercial Hunting Areas; 9) incorporate Rule R657-46, Game Birds in Training and Trials; and 10) make technical corrections as needed.

Fiscal Information

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

A) State budget:

The amendments are administrative in nature, and establish a clear line of authority between different regulating agencies; therefore, the Division determines that these changes can be initiated within the current workload and resources of the Division.

The Division does not believe that these amendments would create a cost or savings impact to the state budget or the Division's budget since the changes will not increase workload and can be carried out with existing budget.

B) Local governments:

Since the proposed rule establishes a clear line of authority between regulating agencies and local governments are not included, this filing does not create any direct cost or savings impact to local governments.

Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

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

The proposed rule amendments will not directly impact small businesses because a service is not required of them.

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

The proposed rule amendments will not directly impact non-small businesses because a service is not required of them.

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

These amendments do not have the potential to create a cost impact to those individuals wishing to participate in the raising of gamebirds because there are not additional requirements made with the reenacted rule.

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

The Division determines that this repeal and reenactment will not create additional costs for those participating in the raising of gamebirds because there are not additional requirements made.

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
Total Fiscal Cost	**$0**	**$0**	**$0**
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
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

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

The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 23-13-4	Section 23-14-18	Section 23-14-19

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:	08/14/2023

9. This rule change MAY become effective on:	08/21/2023

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:	Justin Shirley, DWR Director	**Date:**	06/14/2023

R657. Natural Resources, Wildlife Resources.

[~~R657-4. Possession of Live Game Birds.~~

~~R657-4-1. Purpose and Authority.~~

~~(1) Under authority of Sections 23-13-4, 23-14-18, and 23-14-19, the Wildlife Board has established this rule for the possession, importation, purchase, propagation, sale, barter, trade, or disposal of live game birds.~~

~~(2) The provisions of Rule R657-3 do not apply to activities conducted by holders of a valid certificate of registration for aviculture to the extent those activities are covered by this rule.~~

~~R657-4-2. Definitions.~~

~~(1) Terms used in this rule are defined in Section 23-13-2.~~

~~(2) In addition:~~

~~(a) "Aviculture installation" means an enclosed place such as a pen or aviary where privately owned game birds are propagated or kept, and restricts the game birds from escaping into the wild.~~

~~(b) "Commercial use" means, for purposes of this rule, the sales of any game birds authorized by the certificate of registration in excess of $5,000 annually.~~

~~(c) "Game bird" means;~~

~~(i) crane;~~

~~(ii) Blue, Ruffed, Sage, Sharp-tailed, and Spruce grouse;~~

~~(iii) Chukar, Red-legged, and Hungarian partridge;~~

~~(iv) pheasant;~~

~~(v) Band-tailed Pigeon;~~

~~(vi) Bobwhite, California, Gambel's, Harlequin, Mountain, and Scaled quail;~~

~~(vii) waterfowl;~~

~~(viii) Common Ground, Inca, Mourning, and White-winged dove;~~

~~(ix) wild or pen-reared wild turkey of the following subspecies:~~

~~(A) Eastern;~~

~~(B) Florida or Osceola;~~

~~(C) Gould's;~~

~~(D) Merriam's;~~

~~(E) Ocellated; and~~

~~(F) Rio Grande; and~~

~~(x) ptarmigan.~~

~~(d) "Pen-reared wild turkey" means any turkey or turkey egg held under human control that:~~

~~(i) is imprinted on other poultry or humans; and~~

~~(ii) has morphological characteristics of wild turkeys.~~

~~(e) "Wild turkey" means recognized subspecies and hybrids of free-ranging turkeys hatched in the wild. Recognized subspecies and hybrids between subspecies include Eastern, Florida or Osceola, Gould's, Merriam's, Ocellated, and Rio Grande.~~

~~R657-4-3. Certificates of Registration.~~

~~(1) Except as provided in Subsections R657-4-3(5) and R657-4-7(2), a person may not possess, import, purchase, propagate, sell, barter, trade, or dispose of any live game bird, or the eggs of any game bird, without first obtaining a certificate of registration for aviculture from the division.~~

~~(2) Any person who has obtained a certificate of registration for aviculture may possess, import, purchase, propagate, sell, barter, trade, or dispose of only those species of game birds designated on that person's certificate of registration.~~

~~(3) Certificates of registration for aviculture:~~

~~(a) are not transferable; and~~

~~(b) are valid for five years from the date of issuance.~~

(4)(a) Any person who has applied for and obtained a certificate of registration for avieculture must comply with all state, federal, city, and other municipality laws, rules, and regulations pertaining to the possession of live game birds.

(b) A person shall not operate a hatchery or offer any chicks, poults, or hatching eggs for sale in Utah without first obtaining a hatchery license from the Department of Agriculture and Food as provided in Section 4-29-4.

(5) A person who acquires live game birds is not required to obtain a certificate of registration:

(a) if the game birds are used for training dogs as provided in Rule R657-46;

(b) if the game birds are used for the sport of falconry and:

(i) each game bird held in possession is banded with a metal leg band purchased from the division;

(ii) the game birds are not held in possession longer than 60 days;

(iii) a bill of sale establishing proof of purchase from a legal source is in possession; and

(iv) a valid entry permit number and a certificate of veterinary inspection has been obtained from the Department of Agriculture and Food as provided in Rule R58-1 if the game birds are imported into Utah; or

(c) for holding game birds in temporary storage while the game birds are in transit through Utah provided the birds are identified as to their source and destination and are not removed from the shipping containers.

R657-4-4. Application for a Certificate of Registration.

(1) A person may obtain a certificate of registration for avieculture by submitting a completed application and the appropriate fee to the regional division office in the area in which the avieculture installation is to be located.

(2) If the applicant is under the age of 18, a parent or guardian must co-sign the application and is responsible for compliance with this rule and all other associated laws.

(3) A person may apply to renew a certificate of registration on or three months before the date on which the certificate of registration expires.

R657-4-5. Exhibit of Certificate of Registration, Game Birds, and Equipment.

A conservation officer or any other peace officer may request any person engaged in activities covered under this rule to exhibit:

(1) the person's certificate of registration, permit, health certificate, bill of sale, or proof of ownership;

(2) any game birds held in possession; or

(3) any device, apparatus, or facility used for activities covered under this rule.

R657-4-6. Unlawful Possession -- Release of Game Birds.

(1) A person may not:

(a) take any live game bird or the egg of any game bird from the wild, except as provided in Rules R657-3 and R657-6 and the proclamation of the Wildlife Board for taking upland game;

(b) release or abandon any live game bird without first obtaining written authorization from the division director or appropriate regional supervisor as provided in Subsection (2), except that game birds may be released for training dogs or raptors as provided in Rule R657-46; or

(c) release any wild turkey or pen-reared wild turkey from captivity.

(2) A person must submit a letter requesting permission to release game birds and must include the operator's:

(a) name, address and telephone number;

(b) certificate of registration number;

(c) area and date of intended release;

(d) species to be released;

(e) number and sex of each species to be released; and

(f) a statement from a veterinarian that the birds have been tested for Salmonella pullorum or come from a source flock that participates in the National Poultry Improvement Plan (NPIP).

(3) In determining whether to allow the release of a game bird as allowed under Subsection (1)(b), the division shall consider:

(a) the potential release site and its relative impact on wildlife and wildlife habitat;

(b) the species or subspecies of game birds to be released; and

(c) the activity for which the game birds are to be released.

(4)(a) Any game bird that escapes from captivity becomes the property of the state of Utah.

(b) The director may authorize the destruction of any escaped game birds that may impact wildlife.

(5) The division may dispose of game birds or their eggs held in possession in violation of this rule.

(6) Game birds or their eggs held in captivity must be confined to the registered avieculture installation, except when in transit or being displayed.

R657-4-7. Importation of Live Game Birds and Eggs of Game Birds.

(1) Except as provided in Subsection (2) and Section R657-4-3(5), a person importing live game birds or the eggs of game birds into Utah must first obtain:

(a) a valid entry permit number and a certificate of veterinary inspection from the Department of Agriculture and Food as provided in Rule R58-1 and in accordance with Section 4-29-2; and

(b) a certificate of registration from the division.

(2) A nonresident importing live game birds into Utah is not required to obtain a certificate of registration for avieculture unless the game birds remain in Utah longer than 72 hours.

R657-4-8. Sale or Purchase of Live Game Birds.

(1)(a) Any person who sells, barters, trades, or disposes of a live game bird or the egg of a game bird to another person must provide a bill of sale.

(b) The transferer's certificate of registration number must be written on the bill of sale.

(2)(a) Any person who possesses, imports, purchases, propagates, sells, barters, trades, or disposes of live game birds must keep a record of each transaction that includes:

(i) the species;

(ii) the number and sex of the game birds;

(iii) the name and address of each party to the transaction; and

(iv) the date of the transaction.

(b) The records required under Subsection (a) must be maintained for five years.

~~**R657-4-9. Penalty for Violation.**~~

~~A violation of any provision of this rule is punishable as provided in Section 23-13-11.~~]

R657-4. Possession and Release of Pen-reared Gamebirds.

R657-4-1. Purpose and Authority.

(1) Under authority of Sections 23-13-4, 23-14-18, and 23-14-19, the Wildlife Board has established this rule for the possession, importation, purchase, propagation, sale, barter, trade, release or disposal of live pen-reared gamebirds and their eggs.

(2) The provisions of Rule R657-3b do not apply to activities conducted by holders of a valid Wildlife Document to the extent those activities are covered by this rule.

R657-4-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Authorized Species" those species specifically authorized on a certificate of registration.

(b) "Commercial hunting area" or "CHA" means a parcel of land permitted to release pen-reared or propagated gamebirds more than five days per year.

(c) "Contiguous" means a piece of land that shares a boundary, including a single point at corners.

(d) "Director" means the director of the Division.

(e) "Disease free status" means a bird, or representative sample of a flock has tested negative for pathogens listed in Rule R58-6 and Section R657-4-10.

(f) "Division" means the Utah Division of Wildlife Resources.

(g) "Durable marking" means metal leg band, patagial tag, or other marking attached to an animal identifying it as a pen-reared bird that can reasonably be expected to remain attached for more than one year and is easily visible on inspection of a bird in hand.

(h) "Field trial" means an organized event where the abilities of dog handlers and their dogs and are evaluated, including the ability of the dogs to hunt or retrieve gamebirds.

(i) "NPIP" means National Poultry Improvement Plan.

(j) "Operator" means a person, group, or business entity, including their agents, employees and contractors, that manages, owns, administers, or oversees the activities and operations of a facility or CHA. Operator further includes any person, group or business entity that employs or contracts another to serve or act as an operator.

(k) "Pen-reared Gamebird" means species of the following that were breed from legally acquired captive stock and hatched and raised in captivity:

(i) chukar partridge;

(ii) red-legged partridge;

(iii) gray (Hungarian) partridge;

(iv) pheasant (genus Syrmaticus, Chrysolophus, and Phasianus);

(v) Bobwhite quail;

(vi) California quail;

(vii) Gambel's quail; and

(viii) waterfowl (Family Anatidae).

(l) "Train" or "training" means informal handling, exercising, teaching, instructing, and disciplining of dogs or raptors in the skills and techniques of hunting and retrieving gamebirds characterized by absence of fees, judging, or awards.

(m) "Wildlife Document" A certificate or registration, permit, license or other document issued by the Division granting permission for a possession of animals or a specific activity.

R657-4-3. Prohibited Possession and Release of Gamebirds.

(1) A person may not take any live gamebird or the egg of any gamebird from the wild, except as provided in Rules R657-3, R657-6, R657-9 and the proclamation of the Wildlife Board for taking upland game. Any permit or Wildlife Document granted in this rule does not give permission to take any wild birds or other animals, including species listed as pen-reared gamebirds.

(2) Except as provided in Section R657-4-11, a person may not possess, purchase, or dispose of a live pen-reared gamebird without first obtaining a Pen-reared Gamebird Personal Possession Wildlife Document from the Division or Commercial Gamebird Facility License from the Department of Agriculture and Food.

(3) A person may not import, propagate, sell, barter, trade, any live pen-reared gamebird, or the eggs of any pen-reared gamebird, without first obtaining a Personal Use Pen--reared Gamebird Permit from the Division or Commercial Gamebird Facility License from the Department of Agriculture and Food.

(4) Except as provided in Section R657-4-14, a person may not release live pen-reared gamebirds without first obtaining a High Volume Pen-reared Gamebird Release Wildlife Document or CHA Wildlife Document from the Division.

R657-4-4. Exhibit of Wildlife Document, License, Pen-reared Gamebirds, and Equipment.

(1) A conservation officer or any other law enforcement officer may request any person engaged in activities covered under this rule to exhibit:

(a) the person's license, permit, health certificate, bill of sale, Wildlife Document or proof of ownership;

(b) any pen-reared gamebirds held in possession; and

(c) any device, apparatus, or facility used for activities covered under this rule.

(2)(a) Certificates of registration, permits, wildlife documents and licenses are issued upon the express condition that the operator agrees to permit the Division, Department of Agriculture and Food, and public health and safety officials to enter and inspect the premises, facilities, and all required records and health certificates to ensure compliance with this rule and other applicable laws.

(b) Inspections shall be made during reasonable hours.

R657-4-5. Penalty for Violation.

(1) The Division may suspend or revoke any license, permit or certificate related to pen-reared gamebird possession or release, as authorized under Section 23-19-9 and Rule R657-26, for violation of Utah Code, rule, or terms of the certificate of registration.

(2) A violation of this rule is punishable as provided in Section 23-13-11.

(3) The Division may dispose of pen-reared gamebirds or their eggs held in possession in violation of this rule.

R657-4-6. Recapture.

(1) Recapturing pen-reared gamebirds that have been released or escaped is permitted only:

(a) within CHA release area boundaries; and

(b) for species listed on the CHA Wildlife Document as not established in the wild in the area; or

(c) to capture birds who escaped from a registered personal use pen-reared gamebird facility or commercial gamebird facility.

(2) Any pen-reared gamebird that exits a designated release area becomes the property of the state and may not be recaptured.

(3) Any pen-reared gamebirds recaptured may not be recounted or added to the total number of birds released for annual reporting purposes.

R657-4-7. Importation of Live Pen-reared Gamebirds and Eggs of Gamebirds.

(1) All pen-reared gamebirds and hatching eggs imported into Utah must meet the requirements found in Rules R58-1 and R58-6.

R657-4-8. Records of Sale or Purchase of Live Pen-reared Gamebirds.

(1) Any person who sells, barters, trades, or disposes of a live pen-reared gamebird or the egg of a pen-reared gamebird to another person, including sale of birds released on commercial hunting areas or during high volume pen-reared gamebird releases, must provide a bill of sale that includes:

(a) the seller's Commercial Gamebird Facility License number or Pen-reared Gamebird Personal Possession Wildlife Document number and CHA or High Volume Pen-reared Gamebirds Release Wildlife Document number if applicable;

(b) the species;

(c) the number of pen-reared gamebirds;

(d) the sex of pen-reared gamebirds if plumages exhibits sexual dimorphism; and

(e) the date of the transaction.

(2) Any person who possesses, imports, purchases, propagates, sells, barters, trades, or disposes of live pen-reared gamebirds must keep a record of each transaction that includes:

(a) the species;

(b) the number of pen-reared gamebirds;

(c) the sex of pen-reared gamebirds if plumages exhibits sexual dimorphism;

(d) the name and address of each party to the transaction;

(e) Commercial Gamebird Facility License number, Pen-reared Gamebird Personal Possession Wildlife Document number, CHA Wildlife Document number and High Volume Pen-reared Gamebirds Release Wildlife Document number as applicable; and

(f) the date of the transaction.

(3) The records required under Subsection (2) must be maintained for three years.

R657-4-9. Unlawful Release of Pen-reared Gamebirds.

(1) Except as provided in Section R657-4-14, It is unlawful to release or abandon any live pen-reared gamebird without first obtaining written authorization from the Division in the form of a High Volume Pen-reared Gamebird Release,Wildlife Document, Commercial Hunting Areas Wildlife Document, or written prior approval of the division director or regional supervisor.

(2) The director of the Division may authorize the destruction of any escaped pen-reared gamebirds that may impact wildlife.

(3) A person may not restrict a pen-reared gamebird's ability to fly or run during hunting activities in any manner other than dizzying, tucking heads under wings before release or through the use of release mechanisms such as bird launchers and kick cages.

R657-4-10. Disease.

(1) The Division may:

(a) investigate any reported disease and take any necessary action to control a contagious or infectious disease affecting domestic animals, wildlife, or public health; or

(b) order a veterinarian or certified pathologist's report of a suspected disease, and may order quarantine, immunization, testing, or other sanitary measures.

(2)(a) The Division may order the destruction and disposal of any pen-reared gamebird found to have an untreatable disease which poses a potential threat or health risk to domestic poultry, humans, or wildlife, as determined by the Division, the Department of Agriculture and Food, or the Department of Health and Human Services.

(b) Actions taken pursuant to Subsection (a) may be at the operator's expense.

(c) Actions taken pursuant to Subsection (a) shall be accomplished by following procedures acceptable to the Division that ensure the disease is not transmitted to wildlife, domestic animals, or humans.

(3) Operators must take reasonable precautions to prevent and control the spread of infectious diseases among pen-reared gamebirds under their control.

(4) Commercial Gamebird Facilities must be licensed through the Department of Agriculture and Food under Rule R58-6, and meet requirements outlined therein.

(5) Groups or individuals releasing pen-reared gamebirds under a High Volume Pen-reared Gamebird Release Wildlife Document shall:

(a) Obtain pen-reared gamebirds from a Commercial Gamebird Facility within Utah licensed by the Department of Agriculture and Food; or

(b) Import pen-reared gamebirds into Utah following Department of Agriculture and Food requirements in Section R58-1-10; or

(c) If any birds are kept longer than 30 days, or are housed in the same facility that has contained any birds for more than 30 days operators must obtain a statement from a veterinarian within 30 days before release that a representative sample of birds tested negative for:

(i) Mycoplasma gallisepticum;

(ii) Mycoplasma synoviae;

(iii) Avian Influenza virus;

(iv) Salmonella pullorum-typhoid testing is required if any other domestic birds are on the facility or if any pen-reared gamebirds did not originate from an NPIP source flock certified for both Pullorum-Typhoid.

(v) Additional diseases identified by the Division or Utah Department of Agriculture and Food as threats to wildlife or domestic birds.

(d) In the case of positive tests birds shall not be brought into, out of, or released from any holding facilities where birds have tested positive for listed diseases within 60 days.

(i) The flock must test negative before any birds are brought into, out of, or released from any facilities where birds have previously tested positive for listed diseases.

(ii) Additional measures may be applied as deemed appropriate by the Division, the Department of Agriculture and Food, or the Department of Health and Human Services.

(e) Notify the Division of any large or unusual mortality events due to infectious disease, diet or unknown cause within 48 hours of the event.

(6) Those holding or propagating pen-reared gamebirds under a Pen-reared Gamebird Personal Possession Wildlife Document shall:

(a) Obtain pen-reared gamebirds from a Commercial Gamebird Facility within Utah licensed by the Department of Agriculture; or

(b) Import pen-reared gamebirds into Utah following Department of Agriculture and Food requirements in Section R58-1-10; or

(c) Test within 30 days of acquisition for:

(i) Mycoplasma gallisepticum;

(ii) Mycoplasma synoviae;

(iii) Avian Influenza virus;

(iv) Salmonella pullorum-typhoid testing is required if any other domestic birds are on the facility or if any pen-reared gamebirds did not originate from an NPIP source flock certified for both Pullorum-Typhoid.

(v) Additional diseases identified by the Division or Utah Department of Agriculture and Food as threats to wildlife or domestic birds.

(d) In the case of positive tests birds shall not be brought into, out of, or released from of any holding facilities where birds have tested positive for listed diseases within 60 days.

(i) The flock must test negative before any birds are brought into, out of, or released from any facilities where birds have previously tested positive for listed diseases.

(ii) Additional measures may be applied as deemed appropriate by the Division, the Department of Agriculture and Food, or the Department of Health and Human Services.

(e) Notify the Division of any large or unusual mortality events due to infectious disease, diet or unknown cause within 48 hours of the event.

(7) Those possessing or releasing pen-reared gamebirds under short term pen-reared gamebird possession provisions or personal use pen-reared gamebird release provisions shall:

(a) Obtain pen-reared gamebirds from a Commercial Gamebird Facility within Utah licensed by the Department of Agriculture; or

(b) Import pen-reared gamebirds into Utah following Department of Agriculture and Food requirements in Section R58-1-10; or

(c) Test within 30 days before release for:

(i) Mycoplasma gallisepticum;

(ii) Mycoplasma synoviae;

(iii) Avian Influenza virus

(iv) Salmonella pullorum-typhoid testing is required if any other domestic birds are on the facility or if any pen-reared gamebirds did not originate from an NPIP source flock certified for both Pullorum-Typhoid.

(v) Additional diseases identified by the Division or Utah Department of Agriculture and Food as threats to wildlife or domestic birds.

(d) In the case of positive tests birds shall not be brought into, out of, or released from of any holding facilities where birds have tested positive for listed diseases within 60 days.

(i) The flock must test negative before any birds are brought into, out of, or released from any facilities where birds have previously tested positive for listed diseases.

(ii) Additional measures may be applied as deemed appropriate by the Division, the Department of Agriculture and Food, or the Department of Health and Human Services.

(e) Notify the Division of any large or unusual mortality events due to infectious disease, diet or unknown cause within 48 hours of the event.

R657-4-11. Short Term Pen-reared Gamebird Possession.

(1) A Wildlife Document is not required if:

(a) a person has pen-reared gamebirds collectively in possession less than 60 days;

(b) fewer than 50 birds are held;

(c) pen-reared gamebirds were acquired in Utah or imported as per regulations in Rule R58-6;

(d) each pen-reared gamebird has a durable marking attached;

(e) a bill of sale establishing proof of purchase from a legal source is in possession;

(f) pen-reared gamebirds meet disease requirements specified in Section R657-4-10; and

(g) the pen-reared gamebirds are used for dog training or falconry bird training.

(2) No registration is needed for holding pen-reared gamebirds in temporary storage while the pen-reared gamebirds are in transit through Utah provided the birds are identified as to their source and destination and are not removed from the shipping containers.

(3) Any person in possession of pen-reared gamebirds must comply with all state, federal, city, and other municipality laws, rules, and regulations pertaining to the possession of live pen-reared gamebirds.

R657-4-12. Pen-reared Gamebird Personal Possession Wildlife Document.

(1) A Pen-reared Gamebird Personal Possession Wildlife Document is required for any of the following:

(a) Pen-reared gamebirds are held 60 day or longer;

(b) 50 or more and less than 1,000 total birds and viable eggs are held in possession;

(c) for import, propagation, sale, barter, trade of pen-reared gamebirds; or

(d) for hatching of pen-reared gamebird eggs.

(2) A person who acquires live pen-reared gamebirds is not required to obtain a Pen-reared Gamebird Personal Possession Wildlife Document if they:

(a) meet criteria in Section R657-4-11; or

(b) possess a Commercial Gamebird Facility License from the Department of Agriculture and Food as outlined in Rule R58-6.

(3) Pen-reared Gamebird Personal Possession Wildlife Documents:

(a) are not transferable;

(b) are valid for one year from the date of issuance; and

(c) are limited to authorized pen-reared gamebird species or as indicated on the permit.

(4) Any person who has applied for and obtained a Pen-reared Gamebird Personal Possession Wildlife Document must comply with all state, federal, city, and other municipality laws, rules, and regulations pertaining to the possession of live pen-reared gamebirds.

(5) Facilities shall:

(a) comply with Division facility guidelines;

(b) be constructed so as to prevent egress of birds;

(c) not permit access to native waterways; and

(d) an inspection is not required to issue a permit.

(6) Pen-reared Gamebird Personal Possession Wildlife Document holders must comply with disease testing requirements as per Section R657-4-10.

(7) Registration for a Pen-reared Gamebird Personal Possession Wildlife Document.

(a) A person may obtain a Pen-reared Gamebird Personal Possession Wildlife Document through the Division's online permitting system.

(b) If the applicant is under the age of 18, a parent or guardian must co-sign the application and is responsible for compliance with this rule and all other associated laws.

R657-4-13. Commercial Gamebird Facility.

(1) A Commercial Gamebird Facility License required if:

(a) more than 1,000 total birds and viable eggs are held in possession; and

(b) for importation, propagation, sale, barter, trade of gamebirds.

(2)(a) A Commercial Gamebird Facility must be licensed by the Department of Agriculture and Food under Rule R657-6.

(i) Private pen-reared gamebird facilities propagating less than 1,000 pen-reared gamebirds per year are exempt from licensure through the Department of Agriculture and Food if in possession of Pen-reared Gamebird Personal Possession Wildlife Document as per Section R657-4-12.

(3) Facilities shall comply with Division facility guidelines in addition to Department of Agriculture and Food Requirements.

(a) Facilities should be constructed so as to prevent escape of birds.

(b) Facilities shall prevent access to native waterways.

(4) Any person in possession of pen-reared gamebirds must comply with all state, federal, city, and other municipality laws, rules, and regulations pertaining to the possession of live pen-reared gamebirds.

R657-4-14. Personal Use Pen-reared Gamebird Release.

(1) A person may release legally acquired pen-reared gamebirds without registration provided:

(a) the person or group of persons is not releasing more than ten pen-reared gamebirds per day or three pen-reared gamebirds per dog or registered falcon per day, whichever is greater;

(b) the group releasing pen-reared gamebirds is less than or equal to ten persons;

(c) the person or group is releasing legally acquired pen-reared gamebirds for training bird dogs or falconry birds;

(d) the person or group birds has an invoice or bill of sale in their possession showing lawful personal possession or ownership of the pen-reared gamebirds;

(e) each pen-reared gamebird must be marked with a durable marking;

(f) any pen-reared gamebird released in areas with wild populations of the same species must be marked with a visible streamer or tape at least 12 inches in length before being released, and must have the streamer or tape attached when killed; and

(g) the use of dogs complies with Rules R657-6. R657-9, and R657-54 and use of falconry birds complies with Rule R657-20.

(2) A person may only take the pen-reared gamebirds they or members of their group have released.

(3) Pen-reared gamebirds that are not recovered on the day of the training, released without permanent marking, or pen-reared gamebirds that escape shall become property of the state and may not be recaptured or taken except:

(a) as specified in Section R657-4-6; or

(b) during legal hunting seasons as specified in the Upland Game and Waterfowl proclamations of the Wildlife Board.

(4) Pen-reared gamebirds released must:

(a) meet requirements specified in Section R657-4-10; and

(b) be healthy, capable of flight, free of disease and suitable for human consumption.

R657-4-15. High Volume Pen-reared Gamebird Release (Field Trial).

(1) A High Volume Pen-reared Gamebird Release Wildlife Document is required for:

(a) groups larger than ten people releasing pen-reared gamebirds;

(b) release of greater than ten pen-reared gamebirds per day per group, or three pen-reared gamebirds per dog or registered falcon per day, whichever is greater;

(c) release activities occur in a release area on five or fewer days within a 365 day period; or

(d) a field trial involving the pursuit of wild rabbits.

(2)(a) A person or group may conduct an event using pen-reared gamebirds provided that person or group applies for and obtains a Wildlife Document from the Division, except as provided in Subsection (b).

(b) A person or group may conduct a field trial using pen-reared gamebirds on a commercial hunting area without obtaining a Wildlife Document.

(3) Up to 1,000 pen-reared gamebirds may be in possession for up to ten days under a High Volume Pen-reared Gamebird Release Wildlife Document.

(a) Possession of pen-reared gamebirds must comply with Section R657-4-10 and other applicable rule.

(4) Any person or group using pen-reared gamebirds must have an invoice or bill of sale available for inspection showing lawful personal possession or ownership of such birds as specified in Section R657-4-8.

(5)(a) each pen-reared gamebird must be marked with a durable marking, except as provided in Subsection (c).

(b) The marking must remain attached to the pen-reared gamebird.

(c) Marking is not required for pen-reared gamebirds released in a field trial that is conducted on a commercial hunting area.

(6) Pen-reared gamebirds may be released only:

(a) on the property specified in the Wildlife Document;

(b) on the dates specified in the Wildlife Document;

(c) after the release area has been cleared of wild gamebirds using trained pointing or flushing dogs; and

(d) on public property with additional permission from the land management agency for the event.

(7) After release, pen-reared gamebirds may be taken:

(a) on the property specified in the Wildlife Document;

(b) on the dates specified in the Wildlife Document; and

(c) by the person who released the pen-reared gamebirds, or by any person participating in the event.

(8) Pen-reared gamebirds that leave the property where the event is held, and birds remaining at the end of the field trial except within commercial hunting area boundaries, shall become the property of the state and may not be taken, except during legal hunting seasons as specified in the Upland Game or Waterfowl proclamations of the Wildlife Board.

(9) Pen-reared gamebirds released must:

(a) meet requirements specified in Section R657-4-10; and

(b) be healthy, capable of flight, free of disease and suitable for human consumption.

(10) Wild rabbits may be used for field trials provided:

(a) the dog is tracking scent trails of wild rabbits;

(b) following initial contact with a wild rabbit the dog must stop pursuit;

(c) only during the dates of the field trial event as specified in the certificate of registration; and

(d) the dog, or the person training the dog, may not harass, catch, capture, kill, injure, or at any time, possess any wild rabbits, except during legal hunting seasons.

(11) Wild rabbits may be taken only during legal hunting seasons as specified in the Upland Game or Waterfowl proclamations of the Wildlife Board.

(12) Division of Wildlife designated dog training areas are exempt from High Volume Pen-reared Gamebird Release requirements for activities authorized by the area manager.

R657-4-16. Application for a High Volume Pen-reared Gamebird Release (Field Trial) Wildlife Document.

(1)(a) Applications must be submitted to the appropriate regional Division office where the field trial is being held.

(b) Applications must be received at least 60 days before the date of the event.

(2) The Division shall not approve any application for an area where, in the opinion of the Division, the release of pen-reared gamebirds and related activities interferes with wildlife, wildlife habitat or wildlife nesting periods.

(3) An application for a High Volume Pen-reared Gamebird Release Wildlife Document must include:

(a) operator's name, address and telephone number;

(c) detailed maps depicting boundaries of release areas and ownership of all parcels within the release area;

(d) large scale maps depicting the location of the release area relative to the nearest city or town;

(e) planned number and species of pen-reared gamebirds to be released;

(f) planned number of participants;

(g) outline of events;

(h) dates of events;

(i) written permission from landowner or land management agency, or evidence of ownership from the operator; and

(j) documentation that pen-reared gamebirds being used for the event:

(a) meet requirements specified in SectionR657-4-10; and

(b) are healthy, capable of flight, free of disease and suitable for human consumption.

(4) The Division may return any application that is incomplete, completed incorrectly, or that is not accompanied by the information required in Subsection (3).

(5) In determining whether to allow the release of pen-reared gamebirds the Division shall consider:

(a) the potential release site and its relative impact on wildlife and wildlife habitat;

(b) the species or subspecies of pen-reared gamebirds to be released; and

(c) the activity for which the pen-reared gamebirds are to be released.

R657-4-17. Commercial Hunting Area Pen-reared Gamebird Release.

(1) A Commercial Hunting Area Pen-reared Gamebird Release Wildlife Document is required for

(a) groups larger than ten people releasing pen-reared gamebirds; or

(b) release of greater ten pen-reared gamebirds per day per group, or three pen-reared gamebirds per dog or registered falcon per day, whichever is greater; and

(c) release activities that occur an area on more than 5 days within a 365 day period

(2) The Wildlife Document for CHA Pen-reared Gamebird Release is valid for three years from the date of issuance.

(a) The Wildlife Document for CHA Gamebird Release is void if annual report and annual fee are not received by the Division.

(3)(a) An operator, their employees, customers or volunteers may release pen-reared gamebirds as specified on their Wildlife Document within the designated commercial hunting area for hunting or training activities during established commercial hunting area season dates.

(b) A operator may conduct a field trial using pen-reared gamebirds on a commercial hunting area without obtaining an additional High Volume Pen-reared Gamebird Release Wildlife Document within season dates specified on their Wildlife Document.

(4) CHA certificates of registration are effective from the date issued through June 30 of the third consecutive year.

(5) The operator must have an invoice or bill of sale available for inspection showing lawful personal possession or ownership of such birds.

(6) Pen-reared gamebirds may be released without a durable marking within designated commercial hunting area boundaries.

(7) Pen-reared gamebirds may be released only:

(a) on the property specified in the Wildlife Document; and

(b) on the dates specified in the Wildlife Document;

(8) After release, pen-reared gamebirds may be taken:

(a) on the property specified in the Wildlife Document; and

(b) on the dates specified in the Wildlife Document.

(9) Pen-reared gamebirds that leave the designated commercial hunting area boundaries shall become the property of the state and may not be taken outside of the designated commercial hunting area boundaries, except during legal hunting seasons as specified in the Upland Game or Waterfowl proclamations of the Wildlife Board.

(10) Pen-reared gamebirds released must:

(a) meet requirements specified in Section R657-4-10; and

(b) be healthy, capable of flight, free of disease and suitable for human consumption.

(11)(a) Operators may not allow the harvest of more than 85% of each species released, except as provided in Subsection (b).

(b) There is no limit to the percentage of pen-reared gamebirds that may be harvested that are not, in the opinion of the Division, established as a wild population in the vicinity of the CHA. Any variance to Subsection (a) shall be indicated on the CHA Wildlife Document.

(12) The Division may include more restrictive conditions on approval of CHAs to protect wildlife and wildlife populations.

(13) Division of Wildlife designated dog training areas are exempt form Commercial Hunting Area Pen-reared Gamebird Release requirements for activities authorized by the area manager.

R657-4-18. Commercial Hunting Area Application.

(1)(a) Applications must be submitted to the appropriate regional Division office where the proposed CHA is located.

(b) Review and processing of the application may require up to 60 days.

(c) More time may be required to process an application if the applicant requests authorization from the Wildlife Board for a variance to this rule.

(2) The Division shall not approve any application for an area where, in the opinion of the Division, the release of pen-reared gamebirds and related activities interferes with wildlife, wildlife habitat or wildlife nesting periods.

(3) An application for a CHA Wildlife Document must include:

(a) operator's name, address and telephone number;

(b) detailed maps depicting boundaries, pen-reared gamebird holding facilities and ownership of all parcels within the CHA;

(c) large scale maps depicting the location of the CHA relative to the nearest city or town;

(d) planned number and species of pen-reared gamebirds to be released;

(e) evidence of ownership of the property, such as a copy of a title, deed, or tax notice that provides evidence the applicant is the owner of the property described; or

(f) a lease agreement for the period of the CHA Wildlife Document, listing the name, address and telephone number of the lessor, that provides evidence the applicant is the lessee of the hunting or shooting rights of the property described;and

(g) the annual CHA Wildlife Document fee for the first year of operation.

(4)(a) Any application that does not clearly and legibly verify ownership or lease by the applicant as required in Subsection (3), of all property for which the application applies shall be returned to the applicant.

(b) Discovery of property after issuance of the CHA Wildlife Document, which is not approved by its owner or lessee to be included in the CHA, shall immediately void the CHA Wildlife Document.

(5) The Division may return any application that is incomplete, completed incorrectly, or that is not accompanied by the information required in Subsection (3).

(6) Applications are not accepted for a CHA that is within 1/4 mile of any existing state wildlife or waterfowl management area without requesting a variance from the Wildlife Board.

(7) The Division may deny any application or impose provisions on the CHA Wildlife Document that are more restrictive than this rule:

(a) if CHA operations may present unacceptable risk to wildlife populations or wildlife habitat; or

(b) if the applicant or operator, or any of its agents or employees:

(i) violated this rule, the Wildlife Resources Code, a CHA Wildlife Document, or the CHA application;

(ii) obtained or attempted to obtain a CHA Wildlife Document by fraud, deceit, falsification, or misrepresentation;

(iii) is employed, contracted through writing or verbal agreement, assigned, or requested to apply and act as the operator by a person, group, or business entity that will directly or indirectly benefit from the CHA, but would otherwise be ineligible under this rule or by virtue of suspension under Section 23-19-9 to operate a CHA if they applied directly as the operator; or

(iv) engaged in conduct that results in the conviction of, a plea of no contest to, a plea held in abeyance, or a diversion agreement to a crime of moral turpitude, or any other crime that when considered with the functions and responsibilities of a CHA operator bears a reasonable relationship to the operator's or applicant's ability to safely and responsibly operate a CHA.

(c) If an application is denied, the Division shall state the reasons in writing.

R657-4-19. Commercial Hunting Area Records and Reports.

(1) The operator of a CHA shall maintain complete and accurate records of:

(a) the number, species, and source of any pen-reared gamebirds purchased or propagated;

(b) health certificates for all pen-reared gamebirds purchased from outside the state;

(c) the number, species and season the pen-reared gamebirds are released; and

(d) the number, species and season of pen-reared gamebirds taken within the CHA boundary;

(e) the number and species and season of wild gamebirds taken within the CHA boundary;

(f) the number, species and date of unusual mortality events due to sickness, disease, diet or unknown cause; and

(g) copies of the bill of sale issued to hunters and any other person who purchases gamebirds.

(2) Each operator must submit an annual report on a form provided by the Division within 30 days of the close of the season or at the time of renewal, including:

(a) the number of pen-reared gamebirds by species that were released and the total number of pen-reared gamebirds taken by hunters or sold;

(b) the date, source, and number of the pen-reared gamebirds purchased;

(c) the number of pen-reared gamebirds by species held in possession for carryover breeding stock at the close of the season; and

(d) annual fee.

(3) All records must be maintained on the hunting premises or the principal place of business for three years and must be available for inspection by the Division.

(4) Falsifying or fabricating any record or report is prohibited and may result in forfeiture of CHA permits.

R657-4-20. Commercial Hunting Area Boundary Marking.

(1) The CHA area must be posted:

(a) at least every 300 yards along the outer boundary of all hunted areas; and

(b) on all corners, streams, rivers, drainage divides, roads, gates, trails, rights-of-way, dikes, canals, and ditches crossing the boundary lines.

(2) Each sign used to post the property must be at least 8-1/2 by 11 inches and must clearly state:

(a) the name of the CHA as designated on the CHA Wildlife Document;

(b) the words "No Trespassing"; and

(c) wording indicating the sign is located on the CHA boundary.

(3)(a) If the CHA operator fails to renew a CHA Wildlife Document or a renewal application is denied, all signs shall be immediately removed.

(b) The Division may remove and dispose of any signs that are not removed within 30 days after the termination of the CHA Wildlife Document.

(4) Commercial hunting area activities may only be conducted on property properly posted and specifically authorized in the CHA Wildlife Document.

(5) Commercial hunting area operators may not post or otherwise restrict public access on public roads, right-of-ways, inholdings, or easements within the CHA, including corner crossing to contiguous parcels of publically owned lands.

R657-4-21. Commercial Hunting Area Acreage Requirements.

(1)(a) The minimum acreage accepted for a CHA is 160 acres in a single contiguous tract.

(b) Non-contiguous areas may be included under a single CHA Wildlife Document if each area is 160 acres or larger and all areas can be contained within a circular area ten miles in diameter.

(c) The maximum acreage accepted for a CHA is 5,760 acres.

(2)(a) A CHA may not be established closer than 1/4 mile of a wildlife management area, waterfowl management area, or migratory bird refuge unless otherwise allowed by a variance of the Wildlife Board.

(b) a new application for the same area may be reapproved at the end of a three year Wildlife Document term without reauthorization by the Wildlife Board.

R657-4-22. Commercial Hunting Area Season Dates.

(1) Hunting on CHA areas is permitted from September 1 through March 31.

(2) If September 1 falls on a Sunday, the season will open on August 31.

(3) Extended season dates may be requested for hosting field trials.

R657-4-23. Commercial Hunting Area Hunting Hours and Hunter Requirements.

(1) Pen-reared gamebirds may be taken on a CHA only one-half hour before sunrise through one-half hour after sunset.

(2) Any person hunting within the state on any CHA must meet hunter education requirements or possess a trial hunting authorization as provided in Section 23-17-6.

KEY: wildlife, birds, game laws, aviculture
Date of Last Change: 2023[~~August 5, 2002~~]
Notice of Continuation: April 4, 2022
Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19; 23-13-4

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	**R694-1**	**Filing ID: 55443**

Agency Information

1. Department:	Public Lands Policy Coordination Office
Agency:	Administration
Building:	Suite 320
Street address:	1594 W North Temple
City, state and zip:	Salt Lake City, UT 84116

Contact persons:		
Name:	**Phone:**	**Email:**
Kristopher Carambelas	801-231-2896	kcarambelas@utah.gov
Laura Ault	801-550-7754	lauraault@utah.gov
Mark Boshell	385-290-8072	mboshell@utah.gov

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

General Information

2. Rule or section catchline:

R694-1. Archaeological Permits

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

The purpose of Rule R694-1 is to establish requirements for the issuance of archaeological survey and excavation permits for all lands owned or controlled by the state, its political subdivisions, and the School and Institutional Trust Lands Administration. The Public Lands Policy Coordinating Office (PLPCO) is submitting this repeal because the Legislature moved the office from the Governor's Office to the Department of Natural Resources.

4. Summary of the new rule or change:

Rule R694-1 is proposed for repeal because the Legislature moved PLPCO from the Governor's Office to the Department of Natural Resources. The new rule will be filed under Natural Resources (Title R654) as "R654-1. Archaeological Permits".

Because Rule R694-1 was enacted or substantially amended more than a decade ago (04/30/2012), the new rule will remove the requirement for permit applications to be submitted as hard copies, and instead require them to be submitted electronically.

The new rule will also replace references to the "Antiquities Section" with the "State Historic Preservation Office", which is now its own office within the Department of Cultural Community Engagement.

It will also provide a definition of "one year" (e.g., Subsections 9-8-305(2)(a)(iii) and (iv)) and greater specificity about what evidence a principal investigator may submit to demonstrate training and experience equivalent to a graduate degree in anthropology, archaeology, or history as provided in Subsections 9-8-305(2)(b) and (5)(d).

Finally, the new rule will explain the conditions under which the requirement for a curation agreement (Subsection R654-1-10(a)(vii)(A)) may be waived, and it will list requirements for "Field Director" and "Monitor", which are not specified in Rule R694-1.
Rule R694-1 is repealed in its entirety.
(EDITOR'S NOTE: The proposed new Rule R654-1 is under ID 55457 in this issue, July 15, 2023, of the Bulletin.)

Fiscal Information

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

A) State budget:

There are no fiscal impacts associated with this repeal as all requirements will be transferred to Rule R654-1.

B) Local governments:

There are no fiscal impacts associated with this repeal as all requirements will be transferred to Rule R654-1.

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

There are no fiscal impacts associated with this repeal as all requirements will be transferred to Rule R654-1.

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

There are no fiscal impacts associated with this repeal as all requirements will be transferred to Rule R654-1.

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 are no fiscal impacts associated with this repeal as all requirements will be transferred to Rule R654-1.

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 fiscal impacts associated with this repeal as all requirements will be transferred to Rule R654-1.

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
Total Fiscal Cost	**$0**	**$0**	**$0**
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
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

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

The Executive Director of the Public Lands Policy Coordinating Office, Redge Johnson, 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 9-8-305	Subsection 9-8-305(5)	

Public Notice Information

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

A) Comments will be accepted until:	08/15/2023

9. This rule change MAY become effective on:	09/01/2023

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:	Redge Johnson, Director	**Date:**	06/13/2023

~~**[R694. Public Lands Policy Coordination Office, Administration.**~~

~~**R694-1. Archeological Permits.**~~

~~**R694-1-1. Authority.**~~

~~These rules are authorized by Subsection 9-8-305(5).~~

~~**R694-1-2. Purpose.**~~

~~The purpose of these rules is to establish requirements for the issuance of survey and excavation permits for all lands in the State of Utah, and to insure compliance with permit provisions and the underlying rules and law.~~

~~**R694-1-3. Definitions.**~~

~~(a) Terms used in this rule are defined in Section 9-8-302.~~

~~(b) In addition:~~

~~(i) "Full-time professional experience" means work within a position requiring responsibility for progress and completion of a project involving archeological resources.~~

~~**R694-1-4. Qualifications of Permit Holders.**~~

~~(a) Permits will be issued to those individuals who qualify as a principal investigator, except for those who may otherwise qualify but who have had a permit suspended or revoked pursuant to Section R694-1-11.~~

~~(b) As authorized by Subsection 9-8-305(2)(b), in lieu of a graduate degree in anthropology, archeology or history, a person requesting a permit may submit evidence demonstrating the ability to design and execute a research project in anthropology, archeology or history, including the collection and analysis of information, presentation of results in an approved and reviewed format, and the subsequent curation of specimens.~~

~~(c)(i) As authorized by Subsection 9-8-305(2)(iii), applicants for a permit may submit evidence of training related to proper methodologies for field procedures, laboratory analysis and reporting within projects involving archeological resources.~~

~~(ii) An applicant for a permit wishing to submit evidence pursuant to Subsection R694-1-4(c)(i) must demonstrate that the training was of a sufficient duration and a sufficiently broad scope of subject matter to substitute for a full year of full-time professional experience.~~

~~(d) Experience in Utah prehistoric or historic archeology shall include basic field, associated laboratory analysis and reporting work based within any portion of the general physiographic and cultural regions found within the state boundaries.~~

~~**R694-1-5. Application for Permit to Survey.**~~

~~(a) A person who wishes to obtain a permit to survey shall obtain and complete an application form and submit the form and all other information required by the form to the Public Lands Policy Coordination Office.~~

~~(b) Other required information may include:~~

~~(i) Projects initiated under previous permits issued by the State of Utah which remain incomplete as of the date of application.~~

~~(ii) The applicant's employer or the name of the applicant's business, if self-employed.~~

~~(iii) A copy of an agreement to curate with an authorized curation facility in the name of the applicant or the applicant's employer.~~

~~**R694-1-6. Application for Permit to Excavate.**~~

~~(a)(i) A person who wishes to obtain a permit to excavate shall complete an application form and submit the original and two copies of the form and all other information required by the form to the Public Lands Policy Coordination Office.~~

~~(ii) The application form shall require the applicant to provide the information required by Subsection 9-8-305(3)(a).~~

~~(b) The Public Lands Policy Coordination Office shall forward one copy of the form and all other information requested to the Antiquities Section and one copy to the agency.~~

~~(c) If the Public Lands Policy Coordination Office has delegated the authority to issue a permit to excavate to another state agency, pursuant to Section R694-1-8, a person who wishes to obtain a permit to excavate on the lands owned by that agency shall submit an application to that agency.~~

~~**R694-1-7. Review of Permit Applications.**~~

~~(a) The Public Lands Policy Coordination Office may, at its sole discretion, seek the advice of one or more principal investigators as part of the review of an application for a permit to survey or a permit to excavate.~~

~~(b) Principal investigators who are authorized to provide advice on permits must hold a valid permit issued by the Public Lands Policy Coordination Office and must volunteer for the task.~~

~~(c) The Public Lands Policy Coordination Office shall keep a list of those principal investigators who volunteer, and shall make use of their services on a rotational basis, except that the Office shall avoid using the advice of any particular volunteer if a conflict of interest would thereby arise.~~

~~(d)(i) The Public Lands Policy Coordination Office shall notify the applicant within 30 calendar days whether or not the application is approved.~~

~~(ii) This time may be extended if additional information is required from the applicant.~~

~~**R694-1-8. Delegation of Authority to Issue a Permit to Excavate.**~~

~~(a) An agency which owns land within the state of Utah may request the delegation of the authority to issue permits to excavate for the lands it owns.~~

~~(b) The agency shall request the delegation by letter signed by the agency's authorized representative.~~

~~(c) The letter shall contain the proposed terms and conditions of the delegation, which shall include the information required by Subsection 9-8-305(3)(c)(ii), and agreement with the following conditions:~~

~~(i) each person approved for a permit to excavate by the agency shall hold a valid permit to survey from the Public Lands Policy Coordination Office at all times prior to and including the expiration date of the permit, including any extensions; and~~

~~(ii) the agency shall consult with the Antiquities Section regarding the research design of the proposed project prior to issuing the permit, and~~

~~(iii) permits issued by the agency pursuant to delegation shall contain the provisions required by Subsection R694-1-10(a), and for purposes of compliance and enforcement of the provisions of R694-1-10(a), a permit issued by the agency shall be considered a permit issued by the Public Lands Policy Coordination Office, and~~

(iv) the agency shall refer issues about performance of work by the permit holder to the Public Lands Policy Coordination Office through the process described in Section R694-1-11, and shall agree to amend, suspend, or revoke a permit according to the final results of that process, and to reinstate a permit only with the concurrence of the Public Lands Policy Coordination Office after compliance with the provisions of Section R694-1-12, and

(v) the agency and the Public Lands Policy Coordination Office shall review the operations of the delegation agreement at least annually, and

(vi) the Public Lands Policy Coordination Office may revoke the delegation at any time without cause, as provided by Subsection 9-8-305(3)(d).

(d) The agency and the Public Lands Policy Coordination Office shall formalize the terms of the delegation through a Memorandum of Understanding.

R694-1-9. Time Period for Permits.

(a) A Permit to Survey shall be effective for either

(i) three years from the date of issuance specified in the permit, or

(ii) for any other period of time

(A) as part of the response to an action initiated under Section R694-1-11, or

(B) for other administrative needs.

(b)(i) A Permit to Excavate shall be effective for the amount of time reasonably necessary to complete the research design's excavation, laboratory analysis, reporting and curation, as specified by a date of expiration in the Permit.

(ii) The time period of a Permit to Excavate may be extended, upon a showing of good cause to the Public Lands Policy Coordination Office, for a period of time to be specified by a new expiration date.

R694-1-10. Permit Provisions.

(a) The following provisions shall be included within each permit issued by the Public Lands Policy Coordination Office:

(i) Professional and Ethical Standards

(A) Permit holders shall comply with the individual provisions of the "Code of Conduct" and the "Standards of Research Performance" promulgated by the Register of Professional Archeologists.

(B) If any of the provisions of the Code or Standards is altered, superseded or otherwise affected in any manner by these rules or other law, the rules and law shall take precedence, and permit holders shall comply with the rule or law.

(ii) Persons Employed by the Principal Investigator to Assist in the Field or Laboratory

By engaging in any field or laboratory work under any permit issued by the Public Lands Office, the principal investigator shall insure that persons hired or otherwise engaged to perform such work, or supervise field or laboratory work in the principal investigator's absence, are fully qualified to perform such work, and shall comply with the "Code of Conduct" and "Standards of Research Performance" as required by Subsection R694-1-10(a)(i).

(iii) Principal Investigators who are Employed by Others

(Reserved.)

(iv) Survey Methodologies

(Reserved.)

(v) Report and Data Format and Standards

(A) Reports of projects undertaken pursuant to permits issued by the Public Lands Policy Coordination Office shall conform to the format and standards which are attached to and made an integral part of the permit.

(B) The Public Lands Policy Coordination Office may amend the format and standards at any time during the time period of a permit, however, the permit holder shall have the option to continue to use the original format and standards for projects which are well into the reporting phase.

(C) Reports for individual projects and sites must contain an identification number obtained from the Division of State History prior to the commencement of fieldwork.

(D) Reports for individual projects must list all individuals who served in a supervisory capacity on the project.

(vi) Completion of Reports in a Timely Manner

(A) Reports of projects undertaken pursuant to any permit issued by the Public Lands Policy Coordination Office shall be completed and submitted to the agency and the Division of State History in a timely manner.

(B)(1) An agency may establish the parameters of timely manner through an agreement with the Division of State History and the Public Lands Policy Coordination Office.

(2) If an agreement has been finalized, the permit shall reference the agreement as the requirement for submission of reports for projects involving that agency's lands.

(3) For purposes of the requirements of Subsection R694-1-10(a)(vi)(B)(1), the term agency shall include an agency or other entity of the federal government.

(vii) Curation of Specimens

(A) The holder of any permit issued by the Public Lands Policy Coordination Office shall either hold a valid agreement with an authorized curation facility, or be covered under the authority of a curation agreement held by the employer of the permit holder, at all times during the time period of the permit.

(B) The holder of any permit issued by the Public Lands Policy Coordination Office shall keep the Office notified of any changes to the expiration date of the curation agreement required by Subsection R694-1-10(a)(vii)(A), or a change in employment.

(C) All specimens collected pursuant to any permit issued by the Public Lands Policy Coordination Office shall be deposited with the appropriate curation facility in a timely manner.

(viii) Discovery of Human Remains

Any person working under the authority of any permit issued by the Public Lands Policy Coordination Office who discovers human remains shall cease further activity in the area and shall notify the landowner, the antiquities section, and the appropriate law enforcement agencies, as required by Sections 9-9-403 and 76-9-704.

(ix) Access to Sites and Site Records

The holder of any permit issued by the Public Lands Policy Coordination Office agrees to cooperate with the Office to allow authorized Office employees access, at any reasonable time, to field and workings and records for the purpose of assuring compliance with the law, rules or permit provisions, subject to the provisions of other law, regulation or rule.

(x) Compliance with Law, Rule, and Permit Conditions

(A) Any person working under the authority of a permit issued by the Public Lands Policy Coordination Office shall comply with all laws, rules and permit conditions.

(B) Failure to comply may result in amendments to or the suspension or revocation of the permit, in addition to any other penalties authorized by law or rule.

~~(xi) The holder of the permit shall keep the Public Lands Policy Coordination Office apprised of any changes in the permittee's employment or business address and phone number, and changes in other business information as the Office may require.~~

~~(b) Permits issued by the Public Lands Policy Coordination Office may include such other provisions as the Office may deem necessary based on an individual's application.~~

~~(c) Permits to excavate issued by the Public Lands Policy Coordination Office shall require that the permit holder also hold a valid permit to survey issued by the Public Lands Policy Coordination Office at all times prior to and including the expiration date of the permit to excavate, including any extensions.~~

~~R694-1-11. Amendment, Suspension or Revocation of Permits.~~

~~(a)(i) Permits may be amended, suspended or revoked pursuant to the terms of this rule.~~

~~(ii) Permits may be amended, suspended, or revoked for violations of law, rule or permit provisions, or upon a finding by the Public Lands Policy Coordination Office that a permit holder is unfit to hold a permit due to a judicial or administrative determination concerning the character or competence of the individual.~~

~~(b)(i) Any agency may file a petition with the Public Lands Policy Coordination Office concerning the work performed under the provisions of any Permit to Survey or Permit to Excavate if the agency believes the work has been done in a manner which is contrary to law, rule or permit provisions.~~

~~(ii) The petition shall state with specificity the facts and circumstances involved and the law, rule or permit provision at issue, and shall be signed by the agency's authorized representative.~~

~~(iii) Each agency shall keep the Public Lands Policy Coordination Office informed of the name of the agency's authorized representative on an ongoing basis.~~

~~(c) The Public Lands Policy Coordination Office shall investigate the issues raised by the petition.~~

~~(d) The Public Lands Policy Coordination Office may initiate investigations into a permit holder's compliance with law, rule and permit provisions at its sole discretion, and may initiate a proceeding to amend, suspend or revoke a permit as a result of those investigations.~~

~~(e)(i) The Public Lands Policy Coordination Office may, at its sole discretion, seek the advice of one or more principal investigators as part of an investigation initiated by either petition or itself.~~

~~(ii) Principal investigators who are authorized to provide this advice must hold a valid permit issued by the Public Lands Policy Coordination Office and must volunteer for the task.~~

~~(iii) The Public Lands Policy Coordination Office shall keep a list of those principal investigators who volunteer, and shall make use of their services on a rotational basis, except that the Office shall avoid using the advice of any particular volunteer if a conflict of interest would thereby arise.~~

~~(f) The Public Lands Policy Coordination Office may choose to employ either informal or formal hearings as authorized by Subsection 63G-4-201(a)(v).~~

~~(g) The Public Lands Policy Coordination Office may resolve issues raised by a petition or by its own proceedings by~~

~~(i) dismissing the petition or otherwise terminating the proceedings, or~~

~~(ii) amending any of the provisions of an existing permit, or~~

~~(iii) imposing new conditions within an existing permit, or~~

~~(iv) suspending the permit, or~~

~~(v) revoking the permit, or~~

~~(vi) any other relief the Office may consider appropriate.~~

~~(h) The Public Lands Policy Coordination Office will immediately inform the Division of State History if a permit is suspended or revoked.~~

~~(i) The final notice of suspension or revocation shall state the reasons for the suspension or revocation.~~

~~R694-1-12. Reinstatement of Permits.~~

~~(a) The final notice of suspension or revocation from a proceeding held pursuant to Section R694-1-11 shall specify the conditions for reinstatement of the permit.~~

~~(b) The holder of the suspended or revoked permit may request reinstatement by submitting a letter to the Public Lands Policy Coordination Office indicating the reasons the reinstatement should be granted.~~

~~(c) The Public Lands Policy Coordination Office may request additional information.~~

~~(d) Reinstatement shall be granted at the sole discretion of the Public Lands Policy Coordination Office.~~

~~(e) A principal investigator who has had a permit suspended or revoked shall not be eligible for another permit until the principal investigator becomes eligible for reinstatement of the original permit.~~

~~R694-1-13. Waiver of Provisions.~~

~~(a) The Public Lands Policy Coordination Office may grant a waiver of the provisions of these rules, except for statutory provisions, in the interest of fairness, impossibility of performance, or other exigent or extenuating circumstances.~~

~~(b) This provision is to be employed to allow the Public Lands Policy Coordination Office to deal with generally unforseen circumstances, and should not be employed to grant broad scale general exceptions to the requirements of Rule R694-1.~~

~~R694-1-14. Confidentiality.~~

~~(Reserved.)~~

~~KEY: archeological permits~~
~~Date of Last Change: April 30, 2012~~
~~Notice of Continuation: March 8, 2022~~
~~Authorizing, and Implemented or Interpreted Law: 9-8-305~~]

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R907-67**	**Filing ID: 55508**

Agency Information

1. Department:	Transportation
Agency:	Administration
Room no.:	Administrative Suite, 1st Floor
Building:	Calvin Rampton
Street address:	4501 S 2700 W
City, state and zip:	Taylorsville, UT 84129

Mailing address:	PO Box 148455	
City, state and zip:	Salt Lake City, UT 84114-8455	
Contact person(s):		
Name:	**Phone:**	**Name:**
Leif Elder	801-580-8296	Leif Elder
Becky Lewis	801-965-4026	Becky Lewis
James Palmer	801-965-4197	James Palmer
Lori Edwards	801-965-4048	Lori Edwards
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R907-67. Debarment of Contractors from Work on Department Projects -- Reasons

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

While performing a five-year review of this rule, the Department of Transportation (Department) learned it has not updated the rule since 12/24/2008, more than 14 years.

During that time, the market for contractors and consultants has changed significantly; dozens of contractors and consultants have entered or exited the market. Many contractors and consultants have changed the way they conduct business and perform contractual obligations for the department.

This rule needs to change to better reflect current market conditions.

4. Summary of the new rule or change:

These proposed changes are:
1) add a new Section R907-67-1, Authority and Purpose;
2) add a new Section R907-67-2, Definitions;
3) make numerous changes to existing reasons and adds new reasons to what becomes Section R907-67-3, Debarment of Contractors From Work on Department Projects -- Reasons;
4) make significant changes to what becomes Section R907-67-4, Procedures for Debarment;
5) change Section R907-67-5, Status Pending Debarment, to allow the deputy director to suspend a contractor from consideration for award of contracts until the administrative review for debarment is complete;
6) change what becomes Section R907-67-6, Suspension from Consideration for Award of Contracts - Indictments, to require a deputy director to review the relevant facts and determine if a subsequent suspension period is warranted and if the Department should initiate an agency action for debarment, and to recognize a conviction or plea of guilty, nolo contendere or the equivalent, a plea agreement, settlement or issuance of a consent judgment that requires the contractor to make a payment to a public entity for an offense related to an activity listed in Section R907-67-1 is sufficient to support suspension; and
7) change what becomes Section R907-67-7, Length of Debarment, to allow a debarment to continue for more than three years if a contractor or associated person is convicted of crimes, or for other good cause.

These proposed changes also:
1) conform this rule with the recent revisions to Rule R907-1, Agency Actions, Administrative Procedures;
2) clarify the difference between suspension and debarment, as well as other provisions;
3) make the rule consistent with federal debarment law, and
4) make other technical and grammatical changes.

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 because this rule is administrative and will not impact Department functions or the parties to which it applies.

B) Local governments:

The Department does not expect this proposed rule change to have a fiscal impact on local governments' revenues or expenditures because it does not apply to local governments.

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

This proposed rule change may impact certain small businesses.

A small business that contracts with the Department to perform a service or provide a product and then commits an action that allows the Department a reason to suspend or debar a firm that is not included in the currently effective version of this rule may face suspension or debarment proceedings.

Suspension or debarment for a period may impact small businesses. It is not possible to estimate how much they may be impacted because there are too many related variables.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
This proposed rule change may impact certain non-small businesses. A non-small business that contracts with the Department to perform a service or provide a product and then commits an action that allows the department a reason to suspend or debar a firm that is not included in the currently effective version of this rule may face suspension or debarment proceedings. Suspension or debarment for a period may impact non-small businesses. It is not possible to estimate how much they may be impacted because there are too many related variables.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
These proposed changes will not result in costs or savings to persons other than small businesses, non-small businesses, and state, or local government entities because it only applies to businesses and related individuals that contract with the Department to provide products or services.

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. The proposed changes clarify and identify additional grounds for the Department to suspend or debar a contractor or consultant.

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
Total Fiscal Cost	**$0**	**$0**	**$0**

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
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:
The Executive Director of the Department of Transportation, Carlos M. Braceras, PE, 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 72-1-201	Section 63G-6a-904	

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:	08/14/2023

9. This rule change MAY become effective on:	08/21/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Carlos M. Braceras, PE, Executive Director	**Date:**	06/23/2023

R907. Transportation, Administration.
R907-67. Suspension and Debarment of Contractors from Work on Department Projects[~~— Reasons~~].
R907-67-1. Authority and Purpose.

(1) Section 72-1-201 grants the department authority to make rules for the administration of the department, state transportation systems, and programs. Section 63G-6a-904 grants the department authority to make rules pertaining to the suspension and debarment of contractors and consultants.

(2) This rule establishes the reasons and a process for the department to debar or suspend a contractor from responding to a solicitation or performing work on a department project.

R907-67-2. Definitions.

(1)(a) "Contractor" means a business, person, or other entity who is or may be seeking to perform work on a department project.

(b) "Contractor" includes a consultant, sub-consultant, owner, director, manager, officer, and fiscal agent of a prime contractor, a subcontractor, or a joint venture.

(2) "Department project" means a project the department administers or a project for which the department has responsibility or oversight.

(3) "Deputy director" means the department's deputy director of engineering and operation.

(4) "Solicitation" means the same as that term is defined in Section 63G-6a-103.

R907-67-3[1]. Debarment of Contractors from Work on Department Projects -- Reasons.

[~~Debarment prevents the contractor from performing work on any department projects, either as a prime contractor or subcontractor.~~]The department may debar a contractor[~~, which, for purposes of this rule includes Consultants and owners, directors, managers, officers or fiscal agents of the Contractor or Consultant),~~] from performing [~~any~~]work on a department project or responding to a solicitation if the department concludes there is[~~projects that it administers if, by~~] substantial evidence[~~, the department concludes~~] that one or more of the following factors is present[~~:~~]:

(1) [~~The Contractor has been convicted of or entered a plea of guilty or nolo contendere to a crime that is related to a bid or contract-related crime in any court in the United States;~~]a conviction of or a civil judgment for:

(a) a commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;

(b) a violation of federal or state antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and solicitation rigging;

(c) a commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or

(d) a commission of another offense indicating a lack of business integrity or business honesty that seriously and directly affects present responsibility;

(2) a violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as:

(a) a willful failure to perform in accordance with the terms of one or more public agreements or transactions;

(b) a history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or

(c) a willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction;

(3) a debarment or a suspension by a state, federal, or local governmental entity, including a debarment or a suspension of:

(a) the contractor;

(b) a stockholder of more than 5% of the available stock of the contractor;

(c) an immediate relative of the contractor; or

(d) a person or a business affiliated with the contractor;

(4) one or more instances of knowingly doing business with a person ineligible to work or conduct business in the United States;

(5) a failure to pay a single substantial debt, or several outstanding debts, including disallowed costs and overpayments, owed to a state agency or instrumentality;

(6) a violation of a material provision of a settlement of a debarment or suspension action;

(7) a violation of a provision of the Drug-Free Workplace Act of 1988, 41 U.S.C. 701;

(8) a violation of Title 29 USC Chapter 15, the Occupational Safety and Health Act of 1970, Title 34a, Chapter 6, the Utah Occupational Safety and Health Act, 23 CFR Part 655, Subpart F, the Manual on Uniform Traffic Control Devices for Streets and Highways, or concomitant rules or regulations;

[~~(2)~~](9) a public admission[~~The Contractor has publicly admitted to~~] of conduct constituting a crime [~~that is~~]related to a [~~bid~~]solicitation or contract;

[~~(3)~~](10) a falsification of[~~The Contractor has falsified~~] information or submission of[~~submitted~~] deceptive or fraudulent statements in connection with prequalification, [~~bidding~~]responding to a solicitation, or [~~performance of~~]performing a contract;

[~~(4) The Contractor has violated federal or state antitrust laws;~~

~~(5) The Contractor has demonstrated willful wrongdoing that reflects a lack of integrity in bidding or performing a public project;~~

~~(6) The Contractor, including a joint venture, stockholder of more than five (5) percent of the available stock, or any immediate relatives of the aforementioned has been debarred or suspended or is affiliated with any debarred or suspended person in any state or by the federal government;~~]

[~~(7)~~](11) [~~The deputy director or designee concludes that the Contractor has acted in~~]one or more instances of collusion with others to perform work on a department project that [~~supposedly~~]ostensibly satisfied disadvantaged business enterprise[~~(DBE)~~] goals or requirements through something other than bona fide disadvantaged business enterprises in a[~~ny~~] combination of individuals, firms, or corporations;

[~~(8) The Contractor has defaulted under previous contracts;~~]

[~~(9)~~](12) one or more instances of unsatisfactory performance on a[~~The Contractor has performed~~] previous or current department project, including:[~~work in an unsatisfactory manner, as determined by either the Project Manager or Resident Engineer. Among the items that can be the subject of unsatisfactory performance are the following, though there may be others that are similar in importance and require a determination of unsatisfactory performance:~~]

(a) failing to comply[~~noncompliance~~] with the contract;

(b) failing[~~failure~~] to complete work on time;

(c) needing[~~instances of~~] substantial corrective work [~~being needed~~]before acceptance of the work;

(d) requiring reduced pay for[~~instances of~~] completed work[~~that requires acceptance at reduced pay~~];

(e) performing[~~production of~~] non-specification work or using non-specification materials[~~, and when applicable, required price reductions or corrective work~~]; or

(f) failing[~~failure~~] to provide adequate safety measures and appropriate traffic control and thereby endangering[~~that endangered~~] the safety of the work-force or the public;[~~.~~]

[~~(10)~~](13) a[~~The Contractor has~~] questionable moral integrity as determined by the department, the United States Attorney General, the Utah Attorney General, or the attorney general of another[~~any other~~] state;

[~~(11)~~](14) a failure[~~Failure~~] to reimburse the state or a local government for [~~monies~~]money owed[~~owned~~] on a[~~ny~~] previously awarded contract, including contracts[~~those~~] where the contractor[~~prospective bidder~~] is a party to a joint venture and the joint venture has failed to reimburse the state or a local government for money[~~monies~~] owed; or[~~.~~]

[~~(12)~~](15) a department determination[~~The deputy director or designee reasonably believes and finds~~] that the public health, welfare, or safety requires debarment or[~~require~~] suspension.

R907-67-4[~~2~~]. Procedures for Debarment.

(1)(a) To determine whether a contractor should be debarred, the department will follow Rule R907-1.

(b) [~~If the Engineer for Construction or designee believes a Contractor should be debarred, he or she will follow the procedures listed in R907-1-2, Commencement by Department - Notice of Agency Action - Procedures. The proceeding shall be handled as an informal administrative proceeding unless the deputy director's designee grants a request for conversion to a formal proceeding.~~]The notice of agency action described in Rule R907-1 must[~~Notice of Agency Action shall also~~] set forth the amount of time being sought as a debarment period.

(2)(a) A conviction or plea of guilty, nolo contendere or the equivalent, a plea agreement, settlement, or issuance of a consent judgment that requires the contractor to make a payment to a public entity for an offense related to an activity listed in Section R907-67-1 is sufficient to support debarment without additional evidence being offered.

(b) An acquittal or dismissal of charges does not require the department to dismiss a notice of agency action concerning debarment.

R907-67-5[~~3~~]. Status Pending Debarment.

(1) If the contract between the department and the [~~C~~]contractor allows for the period of debarment to begin immediately upon service of the notice of agency action[~~Notice of Agency Action~~] or within 15 days of service, debarment begins on the date provided for by the contract.

(2) If the contract is silent, debarment begins [~~thirty (~~]30[~~)~~] days after service of the notice of agency action[~~Notice of Agency Action~~] unless the deputy director[~~or designee~~] determines[~~believes~~] emergency action is necessary, in which case debarment begins upon service.

(3) If the contractor[~~Contractor~~] files a request for review under Rule[~~Request for Review pursuant to Utah Admin. Code~~] R907-1, debarment is stayed pending completion of the administrative review[~~appeal~~].

(4) In accordance with Section R907-67-4, the deputy director may suspend a contractor from consideration for the award of contracts, including contracts awarded under Section 63G-6a-507, until the administrative review is complete.

R907-67-6[~~4~~]. Suspension from Consideration for Award of Contracts - Indictments.

(1)(a) If the deputy director determines[~~believes~~] there is probable cause that a [~~C~~]contractor has engaged in activity that would, if true, lead to debarment under this rule, the deputy director[~~Utah Admin. Code R907-67-1, he or she~~] may suspend the [~~C~~]contractor from consideration for award of contracts.

(b) A contractor who is suspended may not bid on or respond to a solicitation for a[~~ny~~] department contract[~~s~~].

(c) A suspension [~~Suspension~~] may last for no more than three [~~(3) -~~]months unless an indictment has been issued, the department is conducting an administrative review to determine whether the contractor should be debarred, or the Utah Attorney General has filed an information [~~filed, -~~]alleging that the [~~C~~]contractor has engaged in criminal activity that would, if true, lead to debarment under this rule[~~Utah Admin. Code R907-67-1~~].

(d) If an indictment has been issued or an I[~~i~~]nformation filed, a suspension shall last until completion of the [~~C~~]contractor's trial and its right to appeal expires or the dismissal of charges.

(2) Before a suspension period expires, the deputy director shall review the relevant facts, determine if another suspension period is warranted, and if the department should initiate an agency action for debarment.

[~~(2)~~](3)(a) A conviction or plea of guilty, nolo contendere or the equivalent, a plea agreement, settlement or issuance of a consent judgment that requires the contractor to make a payment to a public entity for[~~to~~] an[~~y~~] offense related to an activity listed in [~~Utah Admin. Code~~]Section R907-67-1 is sufficient to support suspension[~~debarment~~] without [~~any -~~]additional evidence being offered.

(b) An[~~However, neither an~~] acquittal [~~n~~]or dismissal of charges does not require the department to dismiss a suspension[~~entitles the Contractor to a dismissal of the debarment~~] notice.

R907-67-7[~~5~~]. Length of Debarment.

(1)(a) Except as provided in this Subsections (1)(a) and (b), and Subsection R907-67-7(1)(b), the department shall debar a contractor[~~A person~~] found to have committed an act listed in Section R907-67-1[~~- shall be debarred~~] for a term of not less than six months and no[~~nor~~] more than three years.

(b) If a basis for debarment is an alleged criminal occurrence or conviction and the contractor has, as part of a sentence or plea agreement, agreed not to bid on public works for more than three years, then the department may extend the debarment to fit the terms of the sentence or plea agreement.

(c) The department may debar a contractor for longer than three years if the presiding officer of an agency action or the department determines good cause exists to debar the person for a more extended period.

(2) To determine the specific period[~~- of time~~], the department will evaluate the following:

(a) degree of culpability;

(b) restitution to the state;

(c) cooperation in the investigation of [~~bidding -~~]a solicitation response or a contract-related crime[~~s~~];

(d) disassociation with those involved in the crimes and active cooperation in prosecuting others [~~who are -~~]involved in the crimes.

(3) Suspension and debarment do not[~~Neither suspension nor debarment~~] absolve the [~~C~~]contractor of[~~- his or her~~] responsibility to perform existing contracts, even if the [~~C~~]contractor

needs to find another company[~~ies~~], firm[~~s~~], or individual[~~s~~] who can perform in the contractor's[~~his or her~~] place.

(4) The department also retains the right to declare a suspended or debarred [~~C~~]contractor in default on an[~~y~~] existing contract if allowed by the contract.

[~~(5) If a basis for debarment is an alleged criminal occurrence or conviction and the Contractor has, as part of a sentence or plea agreement, agreed not to bid on public works for more than three years, then the department may extend the debarment to fit the terms of the sentence or plea agreement.~~]

R907-67-8[~~6~~]. Right to Request Reconsideration[~~Appeal~~].

The [~~C~~]contractor may make a request for reconsideration as provided under Rule[~~appeal the debarment under the provisions of Utah Admin. Code~~] R907-1.[~~The deputy director or designee may name a board of engineers experienced in the type of work for which the Contractor is being debarred to hear the appeal.~~]

KEY: [~~highways~~]debar, transportation, contractors, suspension
Date of Last Change: 2023[~~December 24, 2008~~]
Notice of Continuation: August 27, 2018
Authorizing, and Implemented or Interpreted Law: 72-1-201

End of the Notices of Proposed Rules Section

NOTICES OF
120-DAY (EMERGENCY) RULES

An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that regular rulemaking procedures would:

(a) cause an imminent peril to the public health, safety, or welfare;
(b) cause an imminent budget reduction because of budget restraints or federal requirements; or
(c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-DAY RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-DAY RULE** including the name of a contact person, justification for filing a **120-DAY RULE**, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **120-DAY RULE** is printed. New text is underlined (example) and text to be deleted is struck out with brackets surrounding the deleted text ([~~example~~]). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (**. . . . . .**) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective when filed with the Office of Administrative Rules, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule. Because of its temporary nature, a **120-DAY RULE** is not codified as part of the *Utah Administrative Code*.

The law does not require a public comment period for **120-DAY RULES**. However, when an agency files a **120-DAY RULE**, it may file a **PROPOSED RULE** at the same time, to make the requirements permanent.

Emergency or **120-DAY RULES** are governed by Section 63G-3-304, and Section R15-4-8.

NOTICE OF EMERGENCY (120-DAY) RULE		
Rule or Section Number:	**R68-26**	**Filing ID: 55523**
Effective Date:	**06/30/2023**	

Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
Building:	TSOB South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	**Phone:**	**Email:**
Amber Brown	385-245-5222	ambermbrown@utah.gov
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:
R68-26. Cannabinoid Product Registration and Labeling
3. Purpose of the new rule or reason for the change:
Clarity is needed in labeling requirements for registered cannabinoid products due to feedback the Department of Agriculture and Food (Department) has received from licensees regarding difficulty of including all cannabinoids on the label and questions regarding the need for this information.
4. Summary of the new rule or change:
The changes add clarifying text to Section R68-26-5, requiring that products must only be labeled with the amounts of any advertised and primary cannabinoids and THC or THC analogs identified in the Certificate of Analysis.

A definition is also added to Section R68-26-2 for the term "primary cannabinoid, "which is defined as the top three cannabinoids present in a product if the percentage of that cannabinoid is 0.5% or higher.

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:

This rule change is required without regular rulemaking because under the current requirements it has become difficult for businesses to renew their product registrations due to inability to label products with all cannabinoids.

The industrial hemp program relies on product registration fees to fund the program as it is not supported with any general fund dollars.

In addition, the clarifications will eliminate unnecessary labeling requirements and help the Department require minimum regulation needed to protect the public from unsafe products and ensure products are honestly presented.

Fiscal Information

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

A) State budget:

The changes are clarifying only and do not have an impact on the state budget. The Department will continue to work with licensees to register cannabinoid products and it should not increase staff time.

Registration fees charged by the Department will not change.

B) Local governments:

Local governments do not sell or register cannabinoid products and will not be impacted by the change.

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

Small businesses will have somewhat reduced labeling requirements, however, the cost of producing and registering the products should remain the same.

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

Other persons will not be impacted by the changes because the cost of labeling and registering cannabinoid products will not change.

E) 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 should not change because the rule changes will lead to slightly lessened labeling requirements, but overall labeling and registration costs are maintained.

F) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

This rule will not have a fiscal impact on businesses. Craig W Buttars, Commissioner

Citation Information

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

Subsection 4-41-403(1)		

Agency Authorization Information

Agency head or designee and title:	Craig W Buttars, Commissioner	**Date:**	06/30/2023

R68. Agriculture and Food, Plant Industry.
R68-26. Cannabinoid Product Registration and Labeling.
R68-26-1. Authority and Purpose.

(1) Pursuant to Subsections 4-41-103(4) and 4-41-403(1), this rule establishes the requirements for labeling and registration of products made from and containing industrial hemp.

R68-26-2. Definitions.

(1) "Cannabinoid product" means a product that:

(a) contains or is represented to contain one or more naturally occurring cannabinoids; and

(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.

(2) "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%.

(3) "CBD" or "Cannabidiol" means the cannabinoid identified as CAS# 13956-29-1.

(4) "Certificate of Analysis" (COA) means a document produced by a testing laboratory listing the quantities of the various analytes for which testing was performed.

(5) "Conventional Food" means:

(a) an article used for food or drink for human consumption or the components of the article; or

(b) chewing gum or chewing gum components.

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

(7) "Industrial Hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by weight.

(8) "Industrial hemp product class" means group of cannabinoid products:

(a) that have all ingredients in common; and

(b) are produced by and for the same company.

(9) "Label" means the display of each written, printed, or graphic matter upon the immediate container or statement accompanying an industrial hemp product.

(10) "Manufacturer" means a person who makes any industrial hemp products.

(11) "Non-compliant material" means:

(a) a hemp plant 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.

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

(13) "Primary cannabinoid" means the three cannabinoids contained in the greatest quantity in the product that are each present above 0.5%.

(1[~~3~~]4) "THC" or "Tetrahydrocannabinol" means delta-9-tetrayhdrocannabinol, the cannabinoid identified as CAS # 1972-08-3.

(1[~~4~~]5)(a) "THC analog" means a substance that is structurally or pharmacologically substantially similar to, or is represented as being similar to, delta-9-THC.

(b) "THC analog" does not include the following substances or the naturally occurring acid forms of the following substances:

(i) cannabichromene (CBC), the cannabinoid identified as CAS# 20675-51-8;

(ii) cannabicyclol (CBL), the cannabinoid identified as CAS# 21366-63-2;

(iii) cannabidiol (CBD), the cannabinoid identified as CAS# 13956-29-1;

(iv) cannabidivarol (CBDV), the cannabinoid identified as CAS# 24274-48-4;cannabidiol (CBD), the cannabinoid identified as CAS# 13956-29-1;

(v) cannabielsoin (CBE), the cannabinoid identified as CAS# 52025-76-0;

(vi) cannabigerol (CBG), the cannabinoid identified as CAS# 25654-31-3;

(vii) cannabigerovarin (CBGV), the cannabinoid identified as CAS# 55824-11-8;

(viii) cannabinol (CBN), the cannabinoid identified as CAS# 521-35-7;

(ix) cannabivarin (CBV), the cannabinoid identified as CAS# 33745-21-0; or

(x) delta-9-tetrahydrocannabivarin (THCV), the cannabinoid identified as CAS# 31262-37-0.

(1[~~5~~]6) "Third-party laboratory" means a laboratory with no direct interest in a grower or processor of industrial hemp or industrial hemp products that is capable of performing mandated testing utilizing validated methods.

R68-26-3. Product Registration.

(1) Each cannabinoid product or industrial hemp product class distributed or available for distribution in Utah shall be officially registered annually with the department.

(2) Application for registration shall be made to the department on a form provided by the department including the following information:

(a) the name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicants;

(b) the name of the product;

(c) the type and use of the product;

(d) a complete copy of the label as it will appear on the product in a legible format; and

(e) if the product has been assigned a National Drug Code in accordance with 21 CFR 207.33, the applicant shall provide the National Drug Code number.

(3) The application shall include a certificate of analysis from a third-party laboratory for the product in compliance with Section R68-26-4. The certificate of analysis shall show the cannabinoid profile of the product by percentage of mass.

(4) A registration fee per product, as set forth in the fee schedule approved by the Legislature, shall be paid to the department with the submission of the application.

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

(6) A new registration is required for any of the following:

(a) any change in the cannabinoid product ingredients;

(b) any change to the directions for use; and

(c) any change of name for the product.

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

(8) The person registering the cannabinoid product is responsible for the accuracy and completeness of information submitted.

(9) A registration is good for one calendar year from the date of registration and shall be renewed through payment of an annual renewal fee before expiration.

(10) A cannabinoid product that has been discontinued shall continue to be registered in the state until the product is no longer available for distribution.

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

(12) The department shall not register a cannabinoid product if the product:

(a) uses the cannabinoid as a food additive; or

(b) is represented for use as a conventional food, with the exception of:

(i) a gummy if the gummy is shaped as a gelatinous cube or gelatinous rectangular cuboid or in another basic geometric shape and not in a shape that could be considered appealing to children such as a star shape, fruit, or animal shape; or

(ii) a liquid suspension under two ounces.

R68-26-4. Certificate of Analysis.

(1) Testing shall be conducted on the product in its final form for:

(a) the cannabinoid profile by percentage of mass;
(b) solvents;
(c) pesticides;
(d) microbials;
(e) heavy metals; and
(f) mycotoxins.

(2) The test results required in Subsection R68-26-4(1) shall be reported in accordance with the requirements for a cannabinoid product in Rule R68-37 including the specified units of measure.

(3) The certificate of analysis shall include the following information:
(a) the batch identification number;
(b) the date received;
(c) the date of completion;
(d) the method of analysis for each test conducted; and
(e) proof that the certificate of analysis is connected to the product.

R68-26-5. Label Requirements.

(1) The label of a cannabinoid product shall contain the following information, legibly displayed:
(a) product name or common name, on the front of the label;
(b) brand name, on the front of the label;
(c) the size of the container or net count of individual items, on the front of the label;
(d) net weight;
(e) the suggested use of the product;
(f) list of ingredients, including:
(i) the amount of any advertised cannabinoid listed as present on the COA[~~ listed in milligrams per gram~~];
(ii) the amount of any primary cannabinoid listed as present on the COA; and
(iii) the amount of THC or any THC analog listed as present on the COA.
(g) list of allergens;
(h) manufacturer, packer, or distributor name and address; and
(i) batch number.

(2) A fact panel may be included on the product label if it is not identified as a Drug Fact Panel or Nutritional Fact Panel.

(3) The label of each product intended for human consumption or intended to be vaporized for inhalation shall include the following text, prominently displayed: "This product has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease."

(4) Cannabinoid products containing a cannabinoid other than CBD produced for absorption by humans shall contain the following text, prominently displayed: "Warning - The safety of this product has not been determined."

(5) Notwithstanding Subsection R68-26-5(1) an industrial hemp product containing a cannabinoid produced for human use that has a National Drug Code issued shall be labeled in accordance with 21 CFR 201.66.

(6) In addition to the requirements of Subsections R68-26-5(1) through R68-26-5(5) a cannabinoid product shall have on the label a scannable barcode, QR code, or web address with an easily identifiable link to a document containing the following information:
(a) the total quantity produced; and
(b) a downloadable link for a certificate of analysis for the batch identified.

(7) Cannabinoid products shall not contain medical claims on the label unless the product has been registered with the FDA and is labeled in accordance with Subsection R68-26-5(5).

(8) Cannabinoid product labeling shall clearly show that the product contains material derived from industrial hemp and not cannabis or medical cannabis.

(9) Cannabinoid product labeling shall not:
(a) have any likeness bearing resemblance to a cartoon character or fictional character; or
(b) appear to imitate a food or other product that is typically marketed toward or appealing to children.

(10) The label of cannabinoid products intended for oral consumption by animals shall include the amount of cannabinoids per serving determined by weight of the animal.

(11) The label of cannabinoid products intended for consumption by animal shall not:
(a) contain any feed claims;
(b) be labeled as food; or
(c) contain any Food and Drug Administration evaluation statement.

R68-26-6. Inspection and Testing.

(1) The department shall conduct randomized inspection of cannabinoid products distributed or available for distribution in the state for compliance with this rule.

(2) The department shall periodically sample, analyze, and test industrial hemp products distributed within the state for compliance with registration and labeling requirements and the certificate of analysis.

(3) The department may conduct inspection of cannabinoid products distributed or available for distribution for any reason the department deems necessary.

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

R68-26-7. Violation.

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

(2) Cannabinoid products not meeting the labeling requirements shall be considered misbranded.

(3) Cannabinoid products shall be considered falsely advertised if they do not meet the labeling requirements of this rule.

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

(5) It is a violation to distribute or market industrial hemp flower as a final product.

(6) It is a violation to distribute or market a cannabinoid product that contains greater than 0.3% THC.

(7) It is a violation to distribute or market a cannabinoid product that has not been tested as required by Rule R68-29.

(8) It is a violation to distribute or market a cannabinoid product as a conventional food product, unless the product is exempted under Subsection R68-26-3(12)(b).

(9) It is a violation to distribute or market a cannabinoid product as a food additive.

(10) It is a violation to distribute or market a cannabinoid product that is marketed toward or is appealing to children.

(11) It is a violation to market a cannabinoid product as cannabis or medical cannabis.

(12) It is a violation to submit a fraudulent COA to the department.

R68-26-8. Violation Categories.

(1) Public Safety Violations: Each person shall be fined $3,000-$5,000 per violation. This category is for violations that present a direct threat to public health or safety including:

(a) industrial hemp sold to an unlicensed source;

(b) industrial hemp purchased from an unlicensed source;

(c) refusal to allow inspection;

(d) failure to comply with labeling requirements;

(e) failure to comply with testing requirements;

(f) possessing, manufacturing, or distributing a cannabinoid product that a person knows or should know appeals to children;

(g) marketing a cannabinoid product that makes a medical claim; or

(h) engaging in or permitting a violation of the Title 4, Chapter 41, Hemp and Cannabinoid Act that amounts to a public safety violation as described in this subsection.

(2) Regulatory Violations: Each person shall be fined $1,000-$5,000 per violation. This category is for violations involving this rule and other applicable state rules under Title R68 including:

(a) failure to register an industrial hemp product;

(b) failure to provide a certificate of analysis as required by Section R68-26-4;

(c) failure to keep and maintain records;

(d) engaging in or permitting a violation of Title 4, Chapter 41a, Hemp and Cannabinoid Act or this rule that amounts to a regulatory violation as described in this subsection.

(3) Licensing Violations: Each person shall be fined $500-$5,000 per violation. This category is for violations involving licensing requirements including:

(a) engaging in or permitting a violation of this rule, other applicable rules under Title R68, or Title 4, Chapter 41, Hemp and Cannabinoid Act, that amounts to a licensing violation; or

(b) failure to respond to violations.

(4) The department shall calculate penalties based on the level of violation and the adverse effect or potential adverse effect at the time of the incidents giving rise to the violation.

(5) The department may enhance or reduce the penalty based on the seriousness of the violation.

KEY: CBD labeling, CBD products, cannabinoid product registration
Date of Last Change: June 30, 2023
Authorizing, and Implemented or Interpreted Law: 4-41-403(1); 4-41-402(2); 4-41-103(4)

NOTICE OF EMERGENCY (120-DAY) RULE		
Rule or Section Number:	**R380-300**	**Filing ID: 55522**
Effective Date:	**07/01/2023**	

Agency Information

1. Department:	Health and Human Services
Agency:	Administration (Health)
Building:	MASOB
Street address:	195 N 1950 W
City, state and zip:	Salt Lake City, UT 84116

Contact persons:

Name:	**Phone:**	**Email:**
Janice Weinman	385-321-5586	jweinman@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Daphne Lynch	385-239-5317	dlynch@ytah.gov

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

General Information

2. Rule or section catchline:

R380-300. Employee Background Screening

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

Following the passing of H.B. 377 in the 2023 General Session, the Department of Corrections employees who transfer to the Department of Health and Human Services (DHHS) to provide a clinical or health care service to an inmate as defined in Section 64-13-1 are eligible to continue to earn public safety service credit in this system.

The reason for this emergency rule is to include the Department of Corrections employees who are merging with DHHS as of 07/01/2023, and excluding them from needing another background check solely because of the merge.

This rule is replacing the repealed Human Services Rule R495-885 for Human Services employees and updates the current Rule R380-300 version that is currently in effect for all DHHS employee background clearances.

4. Summary of the new rule or change:

This emergency filing is needed to comply with the pending merge of Department of Correction with DHHS taking place on 07/01/2023.

Additionally, this repeal and reenact updates citations, titles, and language to address employee clearances due to DHHS consolidation. Some content has been removed and will be managed in DHHS policy instead of in the administrative rules.

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:
The reenacted law mandates that certain Department of Corrections employees become DHHS employees effective 07/01/2023. As such, DHHS needs to implement rules that outline how Department of Corrections employee clearances will be managed and effective on the date of the merge. Without this rule in place, DHHS will not have the procedures to process the employee clearances of the newly merged employees, which could potentially place clients served by DHHS at risk of exposure to an individual who has not been properly cleared for direct client or records access.

Fiscal Information

6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There are no changes to state budget as a result of this repeal and reenactment because the fiscal arrangements set forth in the 2022 General Session will remain unchanged with this filing.
B) Local governments:
Local governments, city business licensing requirements, were considered. This proposed repeal and reenactment will not impact local governments' revenues or expenditures because this filing applies only to DHHS employee clearances.
C) Small businesses ("small business" means a business employing 1-49 persons)**:**
This proposed repeal and reenactment will not impact small businesses' revenues or expenditures because this filing applies only to DHHS employee clearances.
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***)**:**
This proposed repeal and reenactment will not impact other persons' revenues or expenditures because this filing applies only to DHHS employee clearances.
E) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**
This proposed repeal and reenactment will not impact any other entity's revenues or expenditures because this filing applies only to DHHS employee clearances.

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):
There are no anticipated costs or savings for businesses' revenues or expenditures because this repeal and reenactment applies only to DHHS employee clearances. Tracy S. Gruber, Executive Director

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 26B-1-211		

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	**Date:**	06/30/2023

R380. Health, Administration.
R380-300. Employee Background Screening.
[~~R380-300-1. Authority.~~

~~This rule is adopted pursuant to Title 26 Chapter 1 Section 17.1.~~

~~R380-300-2. Purpose.~~

~~(1) The purpose of this rule is to set forth the standards for the Department employee and volunteer background screening in accordance with Section 26-1-17.1.~~

~~R380-300-3. Definitions.~~

~~Terms used in this rule are defined in Title 26, Chapter 1. In addition:~~

~~(1) "Current Employee" means all staff, contracted employees, and volunteers who:~~

~~(a) have access to protected health information or personal identifying information;~~

~~(b) have direct contact with patients, children, or vulnerable adults as defined in Section 62A-2-120;~~

~~(c) work in areas of privacy and data security;~~

~~(d) handle financial information, including receipt of funds, reviewing invoices, making payments, and other types of financial information; or~~

~~(e) perform audit functions, whether internal or external, on behalf of the department.~~

~~(2) "Employee" means a current employee of the Department~~

~~(3) "New Employee" means job applicants who have been offered a position or reassignment with the department who:~~

~~(a) have access to protected health information or personal identifying information;~~

~~(b) have direct contact with patients, children, or vulnerable adults as defined in Section 62A-2-120;~~

~~(c) work in areas of privacy and data security;~~

~~(d) handle financial information, including receipt of funds, reviewing invoices, making payments, and other types of financial information; or~~

~~(e) perform audit functions, whether internal or external, on behalf of the department.~~

~~(4) "Office of Background Processing" means the background processing section within the department.~~

~~**R380-300-4. Background Screening Process - Current Employee.**~~

~~(1) The Department may conduct a background screening on current employees based on division's background screening guidelines determined by risk associated with the employees' work responsibilities.~~

~~(2) Current employees who require screening must:~~

~~(a) sign a criminal background screening authorization form;~~

~~(b) provide personal demographics required; and~~

~~(c) submit live scan fingerprints.~~

~~(3) Current employees may continue to work during the department's implementation of the background screening process.~~

~~(4) If the Office of Background Processing determines that a current employee is not eligible for continued employment, based on criminal record information obtained through the initial or ongoing background screening process, the Office of Background Processing shall send a notice of action to the employee and the employee's division director which shall include the action, the reconsideration process, and a statement that the information is confidential.~~

~~(5) The department may allow a current employee to continue to work with conditions, during the reconsideration process as defined in each division's background screening guidelines if the employee can demonstrate the work arrangement does not pose a threat to the department and the safety and health of Utah citizens.~~

~~(6) The department is responsible for the payment of all fees required and any fees required to be submitted to the Federal Bureau of Investigation by the bureau.~~

~~**R380-300-5. Background Screening Process - New Employees.**~~

~~(1) Background screening is part of the department's hiring process and any offer of employment is conditional upon the results of the background screening.~~

~~(2) An employee who is reassigned to the department will be informed in writing that their offer of employment with the department is conditional upon on the results of the background screening.~~

~~(3) The Office of Background Processing shall determine if the new employee is eligible for employment prior to the new employee:~~

~~(a) having access to protected health information or personal identifying information;~~

~~(b) having direct contact with patients, children, or vulnerable adults as defined in Section 62A-2-120;~~

~~(c) working in areas of privacy and data security;~~

~~(d) handling financial information, including receipt of funds, reviewing invoices, making payments, and other types of financial information; or~~

~~(e) performing audit functions, whether internal or external, on behalf of the department.~~

~~(4) All new employees who have been offered employment with the department shall:~~

~~(a) sign a criminal background screening authorization form;~~

~~(b) provide personal demographics; and~~

~~(c) submit live scan fingerprints.~~

~~(5) If the Office of Background Processing determines that a new employee is not eligible for employment, based on information obtained through the background screening process, the Office of Background Processing shall send a notice of action to the employee, Human Resources and the employee's division director which shall include the action and a statement that the information is confidential.~~

~~(6) The department is responsible for the payment of all fees required and any fees required to be submitted to the Federal Bureau of Investigation by the bureau.~~

~~**R380-300-6. Sources for Background Review.**~~

~~(1) In accordance with Section 26-1-17.1, the department may review relevant information obtained from the following sources:~~

~~(a) Department of Public Safety arrest, conviction, and disposition records described in Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files; and~~

~~(b) federal criminal background databases available to the state.~~

~~(2) The department shall classify a crime committed in another state according to the closest matching crime under Utah law, regardless of how the crime is classified in the state where the crime was committed.~~

~~(3) If the Office of Background Processing determines an employee is not eligible for continued employment based upon the criminal background screening and the employee disagrees with the information provided by the Criminal Investigations and Technical Services Division or court record, the employee may challenge the information obtained from the background screening process through the appropriate agency.~~

~~(4) Ongoing monitoring of records referred to in 6(1) will immediately be discontinued upon separation of employment.~~

~~**R380-300-7. Current Employee Exclusions.**~~

~~(1) Convictions or Pending Charges.~~

~~(a) If an employee has been convicted, has pleaded no contest, or is subject to a plea in abeyance or diversion agreement, for deniable offenses outlined within each division's background screening guidelines, the employee may be terminated.~~

~~(b) If an employee has a warrant for arrest or an arrest for any of the identified deniable offenses, the department may terminate employment based on:~~

~~(i) the type of offense;~~

~~(ii) the severity of offense; and~~

~~(iii) potential risk to the department.~~

~~(2) Review of Relevant Information.~~

~~(a) Results of background screening, may be reviewed to determine under what circumstance, if any, the current employee may continue to be employed. The following factors may be considered:~~

~~(i) types and number;~~

~~(ii) passage of time;~~

~~(iii) surrounding circumstances;~~

~~(vi) intervening circumstances; and~~

~~(v) steps taken to correct or improve.~~

~~(3) The Office of Background Processing may deny clearance based on the relevant information identified in subsection 6(1).~~]

R380-300-1. Authority.

Section 26B-1-211 authorizes this rule.

R380-300-2. Purpose.

(1) This rule clarifies the standards for background screenings for department staff, contracted employees and volunteers.

(2) This rule does not apply to the Office of Recovery Services or the Utah State Developmental Center employees.

R380-300-3. Definitions.

The definitions in Section 26B-1-211 apply. In addition:

(1) "Department" means the Department of Health and Human Services.

(2) "Direct Supervision" means that an employee is being supervised under the uninterrupted visual and auditory surveillance of another employee who has an eligible determination issued by the office.

(3) "Eligible" means having a determination made by the office that permits an employee to have a base clearance, a clearance to have direct access, or a clearance to handle financial information.

(4) "Employee" means any employee, applicant who has been offered a position, contracted employee and volunteer of the department who may:

(a) have access to protected health information or personal identifying information;

(b) have direct access to patients, children, or vulnerable adults as defined in Section 26B-2-101;

(c) work in areas of privacy and data security;

(d) handle financial information, including receipt of funds, reviewing invoices, making payments, and other types of financial information; or

(e) perform audit functions, whether internal or external, on behalf of the department.

(5) "Live Scan" means fingerprints copied electronically and transmitted to the Department of Public Safety for enrollment in the FBI Rap Back System that is defined in Section 53-10-108.

(6) "Non-criminal" means any record or event within:

(a) the department's Management Information System created in Section 80-2-1001;

(b) the department's Licensing Information System created in Section 80-2-1002; or

(c) the statewide database of the Division of Aging and Adult Services created by Section 26B-6-210.

(7) "Office" means the Office of Background Processing within the department.

R380-300-4. Employee Background Screening Before Departmental Merges.

(1) Each eligible employee of the Utah Department of Health or the Utah Department of Human Services hired before July 1, 2022 who was subject to a background screening in their respective departments, may not be subject to a new background screening solely based on the merge.

(2) Each eligible employee of the Utah Department of Corrections hired before July 1, 2023 who was subject to a background screening in their department, may not be subject to a new background screening solely based on the merge.

(3) An eligible background screening conducted or retained for a newly hired or current employee before the merge date is considered eligible.

(4) An employee shall complete a new background screening under this rule if:

(a) the employee has any new arrests, charges, convictions or non-criminal events that occur on or after their department's merge date; or

(b) the employee transfers to a new position within the department.

(5) Each department employee hired on or before the dates outlined in Subsections R380-300-4(1) and R380-300-4(2), is subject to a complete background screening as outlined in this section.

R380-300-5. General Background Screening Procedure.

(1) The office shall conduct a background screening on each employee based on the department's background screening policy regarding the risk associated with each employee's work responsibilities.

(2) To initiate a screening, the employee shall:

(a) complete a criminal background screening authorization;

(b) provide any requested personal identifying information;

(c) complete live scan fingerprints; and

(d) provide proof of identity.

(3) The department may permit an individual to work during the processing of the background screening application in accordance with department policy if they are directly supervised,

R380-300-6. Sources for Background Review.

(1) In accordance with Section 26B-1-211, the office may review, and continually monitor relevant information obtained from the following sources:

(a) Department of Public Safety arrest, conviction, and disposition records described in Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records;

(b) federal criminal background databases available to the office;

(c) the department's Management Information System created in Section 80-2-1001;

(d) the department's Licensing Information System created in Section 80-2-1002;

(e) the statewide database of the Division of Aging and Adult Services created in Section 26B-6-210; and

(f) juvenile court records under Section 80-3-404.

(2) The office shall classify a crime committed in another state according to the closest matching crime under Utah Law, regardless of how the crime is classified in the state where the crime was committed.

R380-300-11. Responsibilities.

The office shall immediately terminate ongoing monitoring of records referred to in Subsection 380-300-6(1) at the time of the employee's separation of employment with the department.

KEY: employees, background screenings
Date of Last Change: July 1, 2023
Authorizing, and Implemented or Interpreted Law: [~~26-1-17.1~~|26B-1-211

End of the Notices of 120-Day (Emergency) Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at adminrules.utah.gov. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R13-1**	**Filing ID: 53470**
Effective Date:	**06/15/2023**	

Agency Information

1. Department:	Government Operations	
Agency:	Administration	
Room number:	Third Floor	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 141007	
City, state and zip:	Salt Lake City, UT 84114-1007	
Contact persons:		
Name:	**Phone:**	**Email:**
Marvin Dodge	801-957-7171	marvindodge@utah.gov
Michelle Adams	801-957-7240	michelledadams@agutah.gov
Brian Swan	801-957-7238	bdswan@agutah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R13-1. Public Petitions for Declaratory Orders
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 63G-4-503 mandates that the agency make rules that: 1) provide for petitions of declaratory orders, the disposition of petitions for a such orders; 2) define the classes of circumstances in which the agency will not issue such an order; 3) are consistent with the public interest; and 4) facilitate and encourage agency issuance of reliable advice.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is justified pursuant to Section 63G-4-503 which has not been amended since 2008, and therefore, still requires that this rule stays intact. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Marvin Dodge, Executive Director	**Date:**	06/15/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R398-20**	**Filing ID: 54091**
Effective Date:	**06/26/2023**	

Agency Information

1. Department:	Health and Human Services
Agency:	Family Health and Preparedness, Children with Special Health Care Needs
Room number:	3032
Building:	Multi-Agency State Office Building (MASOB)
Street address:	195 N 1950 W
City, state and zip:	Salt Lake, UT 84116
Mailing address:	PO Box 144610
City, state and zip:	Salt Lake, UT 84114-4610
Contact persons:	

Name:	**Phone:**	**Email:**
Lisa Davenport	80-273-2961	lisadavenport@utah.gov
Alexis Weight	801-629-5800	abweight@utah.gov

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

General Information

2. Rule catchline:

R398-20. Early Intervention

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

This rule is authorized by 34 CFR 303.521 and Section 26B-1-202, and is in response to the legislative mandate for implementation of the family fee for the Baby Watch Early Intervention Program.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments were received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The rule needs to remain in effect as long as the Department of Health and Human Services (Department) is collecting fees for Baby Watch Early Intervention services. Therefore, this rule should be continued.

The Department will be amending this rule following the consolidation and recodification of the Department's statute following the 2023 General Session.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	**Date:**	06/26/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R907-67**	**Filing ID: 52099**
Effective Date:	**06/23/2023**	

Agency Information

1. Department:	Transportation
Agency:	Administration
Room no.:	Administrative Suite, 1st Floor
Building:	Calvin Rampton
Street address:	4501 S 2700 W
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO Box 148455
City, state and zip:	Salt Lake City, UT 84114-8455
Contact person(s):	

Name:	**Phone:**	**Name:**
Leif Elder	801-580-8296	Leif Elder
Becky Lewis	801-965-4026	Becky Lewis
James Palmer	801-965-4197	James Palmer
Lori Edwards	801-965-4048	Lori Edwards

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

General Information

2. Rule catchline:

R907-67. Debarment of Contractors from Work on Department Projects -- Reasons

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Rule R907-67 is authorized by the Department of Transportation's (Department) general grant of rulemaking authority, Section 72-1-201; and the Procurement Code by, Section 63G-6a-904.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department has not received a written comment during and since the last five-year review of this rule from interested persons supporting or opposing this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The Department must have a way to suspend or debar contractors not capable of performing contracts properly, those that have violated state or federal legal requirements while performing contracts with the Department, and those that have committed offenses indicating a lack of business integrity, business honesty, or worthiness to work for the taxpayers. This rule provides that vehicle. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Carlos M. Braceras, PE, Executive Director	**Date:**	06/23/2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R926-11**	**Filing ID: 52931**
Effective Date:	**06/23/2023**	

Agency Information

1. Department:	Transportation
Agency:	Program Development
Room no.:	Administrative Suite, 1st Floor
Building:	Calvin Rampton
Street address:	4501 S 2700 W
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO Box 148455
City, state and zip:	Salt Lake City, UT 84114-8455

Contact person(s):		
Name:	**Phone:**	**Name:**
Leif Elder	801-580-8296	Leif Elder
Becky Lewis	801-965-4026	Becky Lewis
James Palmer	801-965-4197	James Palmer
Lori Edwards	801-965-4048	Lori Edwards
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R926-11. Clean Fuel Vehicle Decal Program
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 41-6a-702 authorizes the Department of Transportation (Department) to make rules to allow a vehicle with a clean fuel vehicle decal to travel in lanes designated for the use of high occupancy vehicles, and Section 72-6-121 requires the Department to make rules to administer the clean fuel vehicle decal program.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department has not received a written comment during and since the last five-year review of this rule from interested persons supporting or opposing this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The Department needs this rule because it is required by Section 72-6-121. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Carlos M. Braceras, PE, Executive Director	**Date:**	06/23/2023

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF
RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Agriculture and Food
Animal Industry
No. 55320 (Amendment) R58-18: Elk Farming
Published: 05/01/2023
Effective: 06/13/2023

No. 55321 (Amendment) R58-20: Domesticated Elk Hunting Parks
Published: 05/01/2023
Effective: 06/13/2023

No. 55375 (New Rule) R58-28: Veterinarian Education Loan Repayment Program
Published: 05/15/2023
Effective: 06/22/2023

Marketing and Development
No. 55342 (Amendment) R65-11: Utah Sheep Marketing Order
Published: 05/15/2023
Effective: 06/22/2023

Plant Industry
No. 55315 (Amendment) R68-8: Utah Seed Law
Published: 05/15/2023
Effective: 06/22/2023

No. 55393 (Repeal) R68-24: Industrial Hemp License for Growers
Published: 06/01/2023
Effective: 07/11/2023

No. 55411 (Amendment) R68-26: Cannabinoid Product Registration and Labeling
Published: 06/01/2023
Effective: 07/11/2023

No. 55325 (Amendment) R68-27: Cannabis Cultivation
Published: 05/01/2023
Effective: 06/13/2023

No. 55343 (Amendment) R68-28: Cannabis Processing
Published: 05/15/2023
Effective: 06/22/2023

No. 55344 (Amendment) R68-30: Independent Cannabis Testing Laboratory
Published: 05/15/2023
Effective: 06/22/2023

No. 55394 (Repeal) R68-32: Sale and Transfer of Industrial Hemp Waste Material to Medical Cannabis Cultivators
Published: 06/01/2023
Effective: 07/11/2023

No. 55413 (Amendment) R68-33: Industrial Hemp Retailer Permit
Published: 06/01/2023
Effective: 07/11/2023

Commerce
Professional Licensing
No. 55326 (Amendment) R156-55c: Plumber Licensing Act Rule
Published: 05/01/2023
Effective: 06/20/2023

Education
Administration
No. 55416 (Amendment) R277-320: Mental Health Screeners
Published: 06/01/2023
Effective: 07/11/2023

No. 55417 (Amendment) R277-400: School Facility Emergency and Safety
Published: 06/01/2023
Effective: 07/11/2023

No. 55418 (Repeal) R277-403: School Safety Pilot Program
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No. 55419 (Amendment) R277-407: School Fees
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No. 55420 (Amendment) R277-479: Funding for Charter School Students With Disabilities on an IEP
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No. 55422 (Amendment) R277-484: Data Standards
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No. 55423 (Amendment) R277-489: Kindergarten Programs and Assessment
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No. 55331 (Amendment) R277-609: Standards for LEA Discipline Plans and Emergency Safety Interventions
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No. 55424 (Amendment) R277-622: School-based Mental Health Qualifying Grant Program
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No. 55425 (Amendment) R277-625: Mental Health Screeners
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No. 55426 (Amendment) R277-733: Adult Education Programs
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No. 55427 (Repeal) R277-930: English Language Learner Software
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Environmental Quality
Air Quality
No. 55176 (New Rule) R307-315: NOx Emission Controls for Natural Gas-Fired Boilers 2.0-5.0 MMBtu
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No. 55176 (Change in Proposed Rule) R307-315: NOx Emission Controls for Natural Gas-Fired Boilers 2.0-5.0 MMBtu
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No. 55177 (New Rule) R307-316: NOx Emission Controls for Natural Gas-Fired Boilers Greater Than 5.0 MMBtu
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No. 55177 (Change in Proposed Rule) R307-316: NOx Emission Controls for Natural Gas-Fired Boilers Greater Than 5.0 MMBtu
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Water Quality
No. 55391 (Amendment) R317-4: Onsite Wastewater Systems
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No. 55327 (Amendment) R317-101-3: Utah Wastewater Project Assistance Program
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Government Operations
Human Resource Management
No. 55359 (Amendment) R477-1: Definitions
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No. 55372 (Amendment) R477-2: Administration
Published: 05/15/2023
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No. 55362 (Amendment) R477-4: Filling Positions
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No. 55363 (Amendment) R477-5: Probationary Period
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No. 55364 (Amendment) R477-6: Compensation
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No. 55365 (Amendment) R477-7: Leave
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No. 55366 (Amendment) R477-8: Working Conditions
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No. 55367 (Amendment) R477-10: Employee Development
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No. 55368 (Amendment) R477-12: Separations
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No. 55369 (Amendment) R477-13: Volunteer Programs
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No. 55370 (Amendment) R477-15: Workplace Harassment Prevention
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No. 55371 (Amendment) R477-16: Abusive Conduct Prevention
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Health and Human Services
Population Health, Environmental Health
No. 55300 (Amendment) R392-200: Sanitation and Safety of Schools
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Health Care Financing, Coverage and Reimbursement Policy
No. 55298 (Repeal) R414-100: Medicaid Primary Care Network Services
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No. 55381 (Amendment) R414-504: Nursing Facility Payments
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No. 55319 (Amendment) R414-517: Inpatient Hospital Provider Assessments
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Family Health and Preparedness, Emergency Medical Services
No. 55385 (Amendment) R426-8: Emergency Medical Services Ground Ambulance Rates and Charges
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Health Care Facility Licensing
No. 55348 (Amendment) R432-1: General Health Care Facility Rules
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No. 55382 (Amendment) R432-8: Specialty Hospital - Chemical Dependency/Substance Abuse Construction
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No. 55350 (Amendment) R432-100: General Hospital Standards
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No. 55349 (New Rule) R432-108: Rural Emergency Hospital
Published: 05/15/2023
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No. 55351 (Amendment) R432-700: Home Health Agency Rule
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Disease Control and Prevention, Laboratory Services
No. 55266 (Amendment) R438-15: Newborn Screening
Published: 03/15/2023
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Administration (Human Services)
No. 55318 (Repeal) R495-881: Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule Implementation
Published: 05/01/2023
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Higher Education (Utah Board of)
Administration
No. 55255 (Repeal) R765-605: Higher Education Success Stipend Program
Published: 03/15/2023
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Housing Corporation
Administration
No. 55430 (Amendment) R460-3: Programs of UHC
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Insurance
Administration
No. 55180 (Amendment) R590-102: Insurance Department Fee Payment Rule
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No. 55180 (Change in Proposed Rule) R590-102: Insurance Department Fee Payment Rule
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No. 55387 (Amendment) R590-237: Access to Health Care Providers in Rural Counties
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No. 55389 (Amendment) R590-262: Health Data Authority Health Insurance Claims Reporting
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Natural Resources
Water Resources
No. 55429 (Amendment) R653-11: Water Conservation Requirements and Incentives
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Wildlife Resources
No. 55414 (Amendment) R657-5: Taking Big Game
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No. 55410 (Amendment) R657-37: Cooperative Wildlife Management Units for Big Game or Turkey
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Transportation
Operations, Traffic and Safety
No. 55374 (Amendment) R920-50-3: Governing Standards
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Workforce Services
Employment Development
No. 55373 (Amendment) R986-700: Child Care Assistance
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End of the Notices of Rule Effective Dates Section