

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
Filed November 02, 2023, 12:00 a.m. through November 15, 2023, 11:59 p.m.

Number 2023-23  
December 01, 2023

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

Unless otherwise noted, all information presented in this publication is in the public domain and may be reproduced, reprinted, and redistributed as desired. Materials incorporated by reference retain the copyright asserted by their respective authors. Citation to the source is requested.

Utah state bulletin.

Semimonthly.

1. Delegated legislation--Utah--Periodicals. 2. Administrative procedure--Utah--Periodicals.
- I. Utah. Office of Administrative Rules.

KFU440.A73S7

348.792'025--DDC

85-643197

# TABLE OF CONTENTS

---

<b>EXECUTIVE DOCUMENTS .....</b>	<b>1</b>
PROCLAMATION	
2023-05E .....	1
<b>NOTICES OF PROPOSED RULES .....</b>	<b>3</b>
AGRICULTURE AND FOOD	
Conservation Commission	
R64-5. Temporary Water Shortage Emergency Loan Program .....	4
Plant Industry	
R68-29. Quality Assurance Testing on Cannabis .....	7
COMMERCE	
Administration	
R151-4. Department of Commerce Administrative Procedures Act Rule .....	14
EDUCATION	
Administration	
R277-210. Utah Professional Practices Advisory Commission (UPPAC),	
Definitions .....	30
R277-211. Utah Professional Practices Advisory Commission (UPPAC),	
Rules of Procedure: Notification to Educators, Complaints and Final	
Disciplinary Actions .....	35
R277-217. Educator Standards and LEA Reporting .....	40
R277-477. Distributions of Funds from the Trust Distribution Account	
and Administration of the School LAND Trust Program .....	44
R277-554. State Charter School Board Grants and Mentoring Program .....	50
R277-625. Mental Health Screeners .....	52
R277-700. The Elementary and Secondary School General Core .....	56
R277-704. Financial and Economic Literacy: Integration into Core Curriculum .....	61
R277-752. Special Education Intensive Services Fund .....	64
ENVIRONMENTAL QUALITY	
Waste Management and Radiation Control, Radiation	
R313-19-13. Exemptions .....	67
R313-21-21. General Licenses--Source Material .....	72
R313-22-55. Conditions of Specific Licenses to Initially Transfer Source	
Material for Use Under Section R313-21-21 .....	75

Waste Management and Radiation Control, Waste Management	
R315-124. Procedures for Decisionmaking .....	77
R315-301. Solid Waste Authority, Definitions, and General Requirements .....	85
R315-302. Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements .....	91
R315-304. Industrial Solid Waste Landfill Requirements .....	97
R315-306. Incinerator Standards .....	100
R315-309. Financial Assurance .....	103
R315-310. Permit Requirements for Solid Waste Facilities .....	108
R315-311. Permit Approval For Solid Waste Disposal, Waste Tire Storage, Energy Recovery, And Incinerator Facilities .....	114
R315-314. Facility Standards for Piles Used for Storage and Treatment .....	117
GOVERNOR	
Economic Opportunity	
R357-13-8. Procedures for the Administration of the Hotel Impact Mitigation Fund .....	121
HEALTH AND HUMAN SERVICES	
Administration	
R380-50. Local Health Department Funding Allocation Formula .....	123
R380-67. Code Blue Alert Protocols .....	126
Integrated Healthcare	
R414-140. Choice of Health Care Delivery Program .....	128
Data, Systems and Evaluation, Vital Records and Statistics	
R436-9. Persons and Institutions Required to Keep Monthly Listings of Vital Statistics Events .....	130
Recovery Services	
R527-220. Parental Support for Children in Care .....	133
INSURANCE	
Administration	
R590-164-5. Electronic Data Interchange Transactions .....	135
NATURAL RESOURCES	
Outdoor Recreation	
R650-201. Definitions .....	138
R650-202. Boating Advisory Council .....	141
R650-203. Waterway Marking System .....	142
R650-204. Regulating Waterway Markers .....	144
R650-205. Zoned Waters .....	147

R650-206. Carrying Passengers for Hire.....	149
R650-208. Backing Plates .....	157
R650-209. Anchored and Beached Vessels .....	158
R650-210. Change of Address .....	160
R650-211. Assigned Numbers .....	162
R650-212. Display of Yearly Registration Decals and Month of Expiration Decals .....	164
R650-213. Dealer Numbers and Registrations.....	166
R650-214. Temporary Registration .....	168
R650-215. Personal Flotation Devices .....	170
R650-216. Navigation Lights .....	172
R650-217. Fire Extinguishers .....	174
R650-218. Carburetor Backfire Flame Control .....	177
R650-219. Additional Safety Equipment.....	179
R650-220. Racing Vessel Exemptions .....	181
R650-221. Boat Liveries and Boat Rental Companies.....	183
R650-222. Muffling Requirements .....	185
R650-223. Vessel Accident Reporting .....	187
R650-224. Towed Devices .....	189
R650-226. Regattas and Races .....	191
R650-227. Swimming.....	193
R650-228. Scuba Diving.....	195
R650-401. Off-Highway Vehicle and Registration Stickers .....	197
R650-405. Off-Highway Implement of Husbandry Sticker Fee .....	198
R650-410. Off-Highway Vehicle Safety Equipment.....	200
R650-412. Curriculum Standards for OHV Education Programs Offered by Non-Division Entities .....	202
State Parks	
R651-201. Definitions .....	204
R651-202. Boating Advisory Council .....	206
R651-203. Waterway Marking System .....	207
R651-204. Regulating Waterway Markers.....	209
R651-205. Zoned Waters.....	211
R651-206. Carrying Passengers for Hire.....	213
R651-207. Registration Fee.....	221
R651-208. Backing Plates .....	222
R651-209. Anchored and Beached Vessels .....	224

R651-210. Change of Address .....	225
R651-211. Assigned Numbers .....	227
R651-212. Display of Yearly Registration Decals and Month of Expiration Decals .....	229
R651-213. Dealer Numbers and Registrations.....	230
R651-214. Temporary Registration .....	232
R651-215. Personal Flotation Devices .....	234
R651-216. Navigation Lights – Note: Figures 1 through 7 mentioned below are on file with the Utah Division of Parks and Recreation .....	236
R651-217. Fire Extinguishers .....	238
R651-218. Carburetor Backfire Flame Control .....	240
R651-219. Additional Safety Equipment.....	242
R651-220. Registration and Numbering Exemptions .....	244
R651-221. Boat Liveries – Boat Rental Companies .....	246
R651-222. Muffling Requirements .....	248
R651-223. Vessel Accident Reporting .....	250
R651-224. Towed Devices .....	251
R651-226. Regattas and Races .....	253
R651-401. Off-Highway Vehicle and Registration Stickers .....	255
R651-405. Off-Highway Implement of Husbandry Sticker Fee.....	257
R651-406. Off-Highway Vehicle Registration Fees .....	258
R651-409. Minimum Amounts of Liability Insurance Coverage for an Organized Practice or Sanctioned Race .....	260
R651-410. Off-Highway Vehicle Safety Equipment .....	262
R651-412. Curriculum Standards for OHV Education Programs Offered by Non-Division Entities .....	263
R651-801. Swimming Prohibited .....	265
R651-802. Scuba Diving .....	267

#### TRANSPORTATION

##### Administration

R907-80-15. Sale or Exchange Involving a Large Public Transit District .....	269
--	-----

#### **NOTICES OF 120-DAY (EMERGENCY) RULES.....271**

#### HEALTH AND HUMAN SERVICES

##### Administration

R380-67. Code Blue Alert Protocols .....	271
--	-----

<b>FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION .....</b>	<b>275</b>
COMMERCE	
Professional Licensing	
R156-81. Retired Volunteer Health Care Practitioner Act Rule .....	275
HEALTH AND HUMAN SERVICES	
Children's Health Insurance Program	
R382-3. Managed Care Organization Incentives to Appropriately Use Emergency Room Services in the Children's Health Insurance Program .....	276
Population Health, Environmental Health	
R392-800. General Sanitation in Public Places.....	276
Integrated Healthcare	
R414-1B. Payment for Limited Abortion Services .....	277
R414-11. Podiatric Services.....	278
R414-14. Home Health Services .....	278
R414-54. Speech-Language Pathology Services.....	279
R414-90. Diabetes Self-Management Training .....	280
R414-401. Nursing Care Facility Assessment .....	280
Administration (Human Services)	
R495-879. Parental Support for Children in Care.....	281
Services for People with Disabilities	
R539-10. Short-Term Limited Waiting List Services .....	281
PUBLIC SERVICE COMMISSION	
Administration	
R746-365. Intercarrier Service Quality .....	282
<b>NOTICES OF FIVE-YEAR REVIEW EXTENSIONS .....</b>	<b>283</b>
HEALTH AND HUMAN SERVICES	
Substance Abuse and Mental Health	
R523-17. Behavioral Health Crisis Response Systems Standards.....	283
R523-18. Mobile Crisis Outreach Teams Certification Standards .....	283
<b>NOTICES OF RULE EFFECTIVE DATES .....</b>	<b>285</b>





# EXECUTIVE DOCUMENTS

---

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

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

---

## PROCLAMATION

**WHEREAS**, since the close of the 2023 General Session of the 65th Legislature of the state of Utah, certain matters have arisen which require immediate legislative attention; and

**WHEREAS**, Article VII, Section 6 of the Constitution of the State of Utah provides that the governor may, by proclamation, convene the Senate into Extraordinary Session; and

**NOW, THEREFORE**, I, Spencer J. Cox, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and Laws of the state of Utah, do by this Proclamation call the Senate only of the 65th Legislature of the state of Utah into the Fifth Extraordinary Session at the Utah State Capitol in Salt Lake City, Utah, on the 15th day of November 2023, at 4:00 P.M., for the following purpose:

For the Senate to consent to appointments made by the Governor to positions within state government of the state of Utah since the close of the 2023 General Session of the Legislature of the State of Utah.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the state of Utah. Done at the Utah State Capitol in Salt Lake City, Utah, this 14th day of November 2023.

(State Seal)

**Spencer J. Cox**  
Governor

ATTEST:

**Deidre M. Henderson**  
Lieutenant Governor

2023-05E

**End of the Executive Documents Section**



## NOTICES OF PROPOSED RULES

---

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between November 02, 2023, 12:00 a.m., and November 15, 2023, 11:59 p.m. are included in this, the December 01, 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 January 03, 2024. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through April 01, 2024, 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:** New

<b>Rule or Section Number:</b>	<b>R64-5</b>	<b>Filing ID:</b> <b>56204</b>
--------------------------------	--------------	-----------------------------------

**Agency Information**

<b>1. Department:</b>	Agriculture and Food	
<b>Agency:</b>	Conservation Commission	
<b>Building:</b>	TSOB South Bldg. Floor 2	
<b>Street address:</b>	4315 S 2700 W	
<b>City, state and zip:</b>	Taylorsville, UT 84129-2128	
<b>Mailing address:</b>	PO Box 146500	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6500	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Kelly Pehrson	801-982-2200	kwpehrson@utah.gov
Amber Brown	385-245-5222	ambermbrown@utah.gov
Jim Bowcutt	435-232-4017	jbowcutt@utah.gov

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

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

R64-5. Temporary Water Shortage Emergency Loan Program

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

This proposed rule provides the implementation process for H.B. 150, Emergency Water Shortages Amendments, which the legislature passed in the 2023 General Session.

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

This proposed rule defines terms, provides eligibility requirements, outlines application procedures, and provides information regarding the Department of Agriculture and Food (Department) loan administration and repayment to interrupted water users during temporary water shortages emergency that are declared by the governor under Section 73-3d-201.

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

At this time there is no anticipated cost or benefit to the state's budget because this rule would only be implemented during a temporary water shortage declared by the Governor.

The Department does not foresee that such an emergency will be declared in the next three years. H.B. 150 appropriated and earmarked \$5,000,000 in the Agriculture Resource Development Loan (ARDL) account to fund loans if needed.

Since the Department cannot forecast a disaster, the Department anticipates no impact on the budget and are planning for the funding to remain in the ARDL account until it is needed.

**B) Local governments:**

This rule would impact local governments if the local government was involved in a temporary water shortage emergency and either provided or needed water during the shortage.

Currently, the Department is unable to estimate the impact because a declared disaster has many variables and unforeseen circumstances. This rule provides the procedures for a local government to understand eligibility and loan requirements.

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

This rule would not have a fiscal impact on small businesses because the Department does not anticipate that a temporary water shortage emergency will be declared in the next three years.

If one was declared, the Department does not have any way to anticipate the cost to small businesses who may preferentially use water or have their water use interrupted.

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

This rule would not have a fiscal impact on non-small businesses because the Department does not anticipate that a temporary water shortage emergency will be declared in the next three years.

If one was declared, the Department does not have any way to anticipate the cost to non-small businesses who may preferentially use water or have their water use interrupted.

**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 would not have a fiscal impact on other persons because the Department does not anticipate that a temporary water shortage emergency will be declared in the next three years.

If one was declared, the Department does not have any way to anticipate the cost to other persons who may preferentially use water or have their water use interrupted.

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

There are no compliance costs associated with this rule.

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

**Regulatory Impact Table**

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

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

The Commissioner of the Department of 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 4-18-106	Title 73, Chapter 3d	
------------------	-------------------------	--

**Public Notice Information**

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Craig W. Buttars, Commissioner	<b>Date:</b>	11/09/2023
---	-----------------------------------	--------------	------------

**R64. Agriculture and Food, Conservation Commission.**

**R64-5. Temporary Water Shortage Emergency Loan Program.**

**R64-5-1. Authority and Purpose.**

Pursuant to Section 4-18-106 and Title 73, Chapter 3d, Water Preferences During Emergencies, this rule establishes general procedures by which the Agriculture Resource Development Loan (ARDL) program may provide loans from the ARDL fund to persons whose water use is interrupted during a temporary water shortage emergency.

**R64-5-2. Definitions.**

(1) "Application" means an application for a loan from the ARDL fund under Section 73-3d-402.

(2) "Program Coordinator" means the staff administrator of the ARDL program employed by the department.

(3) "Commission" means the Utah Conservation Commission created by Section 4-18-104.

(4) "Consequential damages" means the losses or injuries from the exercise of a preference under this rule that result in material losses to an interrupted user and that are reasonably foreseeable to someone familiar with the industry where use is being made of the water at the time the preference is exercised, including:

(a) loss of sales or operating revenue;

(b) damage to equipment; or

(c) damage to capital facilities or operational assets.

## NOTICES OF PROPOSED RULES

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

(6) "Interrupted user" means the same as defined in Section 73-3d-401.

(7) "Preferential user" means a person specified in the executive order declaring a temporary water shortage emergency who uses water preferentially during the temporary water shortage emergency.

### **R64-5-3. Eligibility.**

(1) An interrupted user is eligible to receive one or more 0% interest loans of up to \$150,000 each from the commission if:

(a) pursuant to Section 73-3d-201, the governor declares a temporary water shortage emergency via an executive order specifying:

(i) the time period for the emergency;

(ii) the area subject to the order;

(iii) a list of persons entitled to make a request to preferentially use water; and

(iv) the purposes for which a person who is entitled may take the water; and

(b) water held by an interrupted user is used by a preferential user.

(2) The purpose of a loan under this rule shall be to compensate an interrupted user while they are waiting to receive payment of compensation from a preferential user under Section 73-3d-402.

(3) Pursuant to Subsection 73-3d-301(4) the preferential user shall meter the water used and provide this information to the interrupted user and the department.

### **R64-5-4. Application Procedures.**

(1) An interrupted user who is eligible to receive a loan under Section R64-5-3 may apply to the department using a department created form.

(2) An application must contain all of the necessary information to be considered.

(3) An interrupted user may submit an application at any time during which the executive order declaring the temporary water shortage emergency is in place.

(4) In their application, the interrupted user shall provide sufficient information to establish:

(a) the basis by which the person is entitled to use of the water;

(b) the use of water that would have been made by the person without the interruption;

(c) the length of the interruption;

(d) a good faith estimate of the amount of water the person entitled to the use of water would otherwise have made;

(e) an estimate of the value of the water used, crop losses, and consequential damages incurred as a result of the interruption; and

(f) whether the interrupted user has previously received a loan from the commission for the same interruption of water use.

(5) The interrupted user shall provide any other information requested by the department, including any documentation related to the value of the water used, crop losses, and consequential damages.

(6) The department shall review applications for eligibility and determine the amount to be loaned, not to exceed \$150,000 per loan.

(7) The amount determination in Subsection R64-5-4(5) shall be based on reliable third-party market and producer information, when available, as close as possible to the beginning date of the water delivery interruption.

(8) The amount determination in Subsection R64-5-4(5) may be made based on:

(a) for agriculture commodities, unit prices and base adjustments from:

(i) applicable United States Department of Agriculture crop pricing data sets;

(ii) Utah State University Extension data sets;

(iii) publications, fact sheets, and enterprise budget data sets published by a university;

(iv) documents provided by the interrupted user to establish historical product records; or

(v) other information made available to the department;

(b) for non agricultural products or services, the department may consider information from:

(i) other state agencies;

(ii) federal agencies;

(iii) industry leaders within Utah associated with the goods or service forgone by the interrupted user; or

(iv) other available information or experts; and

(c) for nonagricultural products or services, the department shall determine the number of units of nonagricultural goods and services during the temporary water shortage emergency by using industry standards or recent product or service records.

(9) Based on the recommendation of the program coordinator, the commission shall award loan contracts in the order that completed and eligible applications are received upon receipt of executed documents, including promissory notes and other documents that are agreed to and signed by the borrower.

(10) Each loan contract shall include a provision under which the borrower agrees to notify the department when they have reached an agreement with a preferential user and repay the loan within 30 days after they are paid in full.

(11) Loan contracts may include other provisions at the discretion of the department or program coordinator.

(12) The commission may issue loans only to the extent that there is money in the ARDL fund and the limit on outstanding loans under Subsection 4-18-106(6) has not been met.

### **R64-5-5. Loan Administration and Repayment.**

(1) An interrupted user shall repay the loan issued under this rule within 30 days of the day they are paid in full by a preferential user.

(2) If the department determines that a borrower fails to repay a loan in accordance with this rule, the department may bring suit in a court of competent jurisdiction to require repayment of the loan by the preferential user or interrupted user.

(3) If the department prevails in an action brought under Subsection R64-5-4(2) the department may recover amounts owed, court costs, and reasonable attorney fees.

(4) The commission may delegate responsibilities under this rule to a commission appointed advisory board pursuant to Subsection 4-18-106(7).

**KEY: temporary water shortage emergency; Agriculture Resource Development Loan**

**Date Enacted: 2024**

**Authorizing, and Implemented or Interpreted Law: 4-18-106, 73-3d**

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R68-29	Filing ID: 56171

**Agency Information**

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

**General Information**

2. Rule or section catchline:
R68-29. Quality Assurance Testing on Cannabis
3. Purpose of the new rule or reason for the change:
Changes are required based on changes made during the 2023 General Session under S.B. 91 to clarify requirements related to cannabinoid product testing and the presence of seeds.
4. Summary of the new rule or change:
In Section R68-29-2, artificially derived cannabinoid is added to the definition of adulterant and a definition is added for "unknown cannabinoid", consistent with changes under S.B. 91 (2023).
A limit related to the presence of seeds has been added to Section R68-29-3.
Also consistent with changes in S.B. 91 (2023), clarifications are made in Section R68-29-7 related to cannabinoid testing and lab results that would fail testing due to the presence of unknown or artificially derived cannabinoids.

Action limits for cannabinoids have been set in a new Table 2 and Table 3 which have been added to the rule.

**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 Department of Agriculture and Food (Department). The Department was already doing the cannabinoid testing required and charging licensees for that testing.

B) Local governments:

Local governments do not manufacture cannabis products and will not be impacted by these rule changes.

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

There should be no impact on small businesses because testing costs will not change overall.

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

There should be no impact on non-small businesses because testing costs will not change overall.

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

Other persons do not manufacture cannabis products and will not be impacted by this rule change.

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

Compliance costs will not be impacted. Testing costs and fees are not changing with 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

## NOTICES OF PROPOSED RULES

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

## Citation Information

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Subsection 4-41a-701(3)		

## Public Notice Information

<b>8. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
<b>A) Comments will be accepted until:</b>	01/03/2024
<b>9. This rule change MAY become effective on:</b>	
01/10/2024	
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

## Agency Authorization Information

<b>Agency head or designee and title:</b>	Craig W Buttars, Commissioner	<b>Date:</b>	11/06/2023
---	-------------------------------	--------------	------------

## R68. Agriculture and Food, Plant Industry.

## R68-29. Quality Assurance Testing on Cannabis.

## R68-29-1. Authority and Purpose.

Pursuant to Subsection 4-41a-701(3), this rule establishes the standards for cannabis and cannabis product potency testing and sets limits for water activity, foreign matter, microbial life, pesticides, residual solvents, heavy metals, and mycotoxins.

## R68-29-2. Definitions.

(1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to health, including:

- (a) pesticides;
- (b) heavy metals;
- (c) solvents;
- (d) microbial life;
- (e) toxins; or
- (f) foreign matter[-]; or
- (g) artificially derived cannabinoids.

(2) "Analyte" means a substance or chemical component that is undergoing analysis.

(3)(a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the cannabis plant.

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

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

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

(4) "Batch" means a quantity of:

(a) cannabis concentrate produced on a particular date and time, following clean up until the next clean up during which the same lots of cannabis are used;

(b) cannabis product produced on a particular date and time, following clean up until the next clean up during which cannabis concentrate is used; or

(c) cannabis flower from a single strain and growing cycle packaged on a particular date and time, following clean up until the next clean up during which lots of cannabis are being used.

(5) "Cannabinoid" means any:

(a) naturally occurring derivative of cannabigerolic acid (CAS 25555-57-1); or

(b) any chemical compound that is both structurally and chemically similar to a derivative of cannabigerolic acid.

(6) "Cannabis" means any part of the marijuana plant.

(7) "Cannabinoid concentrate" means:

(a) the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass; or

(b) any amount of a natural or artificially derived cannabinoid.

(8) "Cannabis cultivation facility" means a person that:

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and



(c) sells or intends to sell cannabis to a cannabis cultivation facility or a cannabis processing facility.

(9) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.

(10) "Cannabis derivative product" means a cannabis product made using cannabis concentrate.

(11) "Cannabinoid isolate" means a concentrated form of cannabinoid with less than a 0.3% combined concentration of THC or any THC analog that is intended for use as an ingredient in a cannabinoid product but is not grown by a Utah licensed cannabis cultivation facility.

(12) "Cannabis plant product" means any portion of a cannabis plant intended to be sold in a form that is recognizable as a portion of a cannabis plant.

(13) "Cannabis processing facility" means a person that:

(a) acquires or intends to acquire cannabis from a cannabis production establishment;

(b) possesses cannabis with the intent to manufacture a cannabis product;

(c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or cannabis concentrate; and

(d) sells or intends to sell a cannabis product to a medical cannabis pharmacy.

(14) "Cannabis product" means a product that:

(a) is intended for human use; and

(b) contains cannabis or delta-9-tetrahydrocannabinol.

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

(16) "CBDA" means cannabidiolic acid, (CAS 1244-58-2).

(17) "Certificate of analysis" (COA) means a document produced by a testing laboratory listing the quantities of the various analytes for the performed testing.

(18) "Delta-9-tetrahydrocannabinol" or "delta-9-THC" means the cannabinoid identified as CAS #1972-08-03, the primary psychotropic cannabinoid in cannabis.

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

(20) "Final product" means a reasonably homogenous cannabis product in its final packaged form created using the same standard operating procedures and the same formulation.

(21) "Foreign matter" means:

(a) any matter that is present in a cannabis lot that is not a part of the cannabis plant; or

(b) any matter that is present in a cannabis or cannabinoid product that is not listed as an ingredient, including seeds.

(22) "Industrial hemp" means a cannabis plant that contains less than 0.3% total THC by dry weight.

(23) "Lot" means the quantity of:

(a) flower from a single strain of cannabis and growing cycle produced on a particular date and time, following clean up until the next clean up during which the same materials are used; or

(b) trim, leaves, or other plant matter from cannabis plants produced on a particular date and time, following clean up until the next clean up.

(24) "Pest" means:

(a) any insect, rodent, nematode, fungus, weed; or

(b) any other form of terrestrial or aquatic plant or animal life, virus, bacteria, or other microorganisms that are injurious to health or to the environment or that the department declares to be a pest.

(25) "Pesticide" means any:

(a) substance or mixture of substances, including a living organism, that is intended to prevent, destroy, control, repel, attract, or mitigate any insect, rodent, nematode, snail, slug, fungus, weed, or other forms of plant or animal life that are normally considered to be a pest or that the commissioner declares to be a pest;

(b) any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and

(c) any spray adjuvant, such as a wetting agent, spreading agent, deposit builder, adhesive, or emulsifying agent with deflocculating properties of its own, used with a pesticide to aid in the application or effect of a pesticide.

(26) "Sampling technician" means a person tasked with collecting a representative sample of a cannabis plant product, cannabis concentrate, or cannabis product from a cannabis production establishment who is:

(a) an employee of the department;

(b) an employee of an independent cannabis laboratory that is licensed by the department to perform sampling; or

(c) a person authorized by the department to perform sampling.

(27) "Standard operating procedure" (SOP) means a document providing detailed instruction for the performance of a task.

(28) "THC" means delta-9-tetrahydrocannabinol (CAS 1972-08-3).

(29) "THCA" means delta-9-tetrahydrocannabinolic acid (CAS 23978-85-0).

(30)(a) "THC analog" means the same as the term is defined in Subsection 4-41-102(23).

(31) "Total CBD" means the sum of the determined amounts of CBD and CBDA.

(32) "Total THC" means the sum of the determined amounts of delta-9-THC and delta-9-THCA, according to the formula: Total THC = delta-9-THC + (delta-9-THCA x 0.877).

(33) "Unit" means each individual portion of an individually packaged product.

(34) "Unknown Cannabinoid" means any component of a cannabis plant product, cannabis concentrate, or cannabis product that a laboratory determines is likely to be a cannabinoid by comparison of physical properties, including molecular weight, retention time, and absorption spectra but is not included in Table 2 or Table 3.

(3)[4]5 "Water activity" is a dimensionless measure of the water present in a substance that is available to microorganisms; calculated as the partial vapor pressure of water in the substance divided by the standard state partial vapor pressure of pure water at the same temperature.

### **R68-29-3. Required Cannabis, Cannabis Product, and Cannabinoid Isolate Tests.**

(1) Before the transfer of cannabis biomass from a cannabis cultivation facility to a cannabis processing facility, the cultivation facility shall make a declaration to the department that the biomass to be transferred is either a cannabis plant product or a cannabis cultivation byproduct.

(2) A representative sample of each batch or lot of cannabis plant product shall be tested by an independent cannabis testing laboratory to determine:

(a) the water activity of the sample;

(b) the amount of total THC, total CBD, and any THC analog known to be present in the sample; and

## NOTICES OF PROPOSED RULES

(c) the presence of adulterants in the sample, as specified in Table 1.

(3) Required testing shall be performed either:

(a) ~~[B]before the transfer of the cannabis plant product to a cannabis processing facility; or~~

(b) following the transfer of the cannabis plant product to a cannabis processing facility.

(4) If cannabis plant product is tested before being transferred to a cannabis processing facility, the cannabis plant product shall be tested for microbial contaminants and foreign matter a second time[repeat testing for microbial contaminants and foreign matter shall be performed] following the transfer.

(5) Cannabis cultivation byproduct shall either be:

(a) chemically or physically processed to produce a cannabis concentrate for incorporation into cannabis derivative product; or

(b) destroyed pursuant to Section 4-41a-405.

(6) ~~[Before its incorporation into a cannabis derivative product, e]~~Cannabis concentrate shall be tested by an independent cannabis testing laboratory before it is incorporated into a cannabis derivative product to determine:

(a) the ~~[amount of total THC, total CBD, and any THC analog known to be present in the sample]~~cannabinoid profile; and

(b) the presence of adulterants in the sample, as specified in Table 1.

(~~[e]~~7) A medical cannabis processor shall isolate [A]any artificially derived cannabinoids present in the cannabis concentrate [shall be isolated] to a purity of greater than 95%, with a 5% margin of error, as determined by an independent cannabis testing laboratory using liquid chromatography-mass spectroscopy or an equivalent method.

(~~[7]~~8) Before the transfer of a cannabis product to a medical cannabis pharmacy an independent cannabis testing laboratory shall test a representative sample of the product [shall be tested by an independent cannabis testing laboratory] to determine:

(a) the water activity of the sample, as determined applicable by the department;

(b) the quantity of any cannabinoid or terpene to be listed on the product label; and

(c) the presence of adulterants in the sample, as specified in Table 1.

(~~[8]~~9) Testing results for cannabis concentrate may be applied to cannabis product derived therefrom, provided that the processing steps used to produce the product are unlikely to change the results of the test, as determined by the department.

(~~[9]~~10) The department may require m[M]ycotoxin testing of a cannabis plant product[;] or cannabis product [may be required if the department]if they have [has]reason to believe that mycotoxins may be present.

(1~~[0]~~1) Mycotoxin testing shall be required for cannabis concentrate.

(1~~[1]~~2) A cannabis processing facility may remediate [A]a cannabis plant product, cannabis concentrate, or cannabis product that fails any of the required adulterant testing standards [may be remediated by a cannabis cultivation facility or cannabis processing facility] after submitting and gaining approval for a remediation plan from the department.

(1~~[2]~~3) A remediation plan shall be submitted to the department within 15 days of the receipt of a failed testing result.

(1~~[3]~~4) A remediation plan shall be carried out and the cannabis plant product or cannabis concentrate shall be prepared for

resampling within 60 days of department approval of the remediation plan.

(1~~[4]~~5) Resampling or retesting of a cannabis lot or batch that fails any of the required testing standards is not allowed until the lot or batch has been remediated.

(1~~[5]~~6) A cannabis lot or cannabis product batch that is not or cannot be remediated in the specified time ~~[period]~~shall be destroyed pursuant to Section 4-41a-405.

(1~~[6]~~7) If test results cannot be retained in the Inventory Control System, the laboratory shall:

(a) keep a record of test results;

(b) issue a COA for required tests; and

(c) keep a copy of the COA on the laboratory premises.

(1~~[7]~~8) Cannabinoid isolate shall be tested for:

(a) solvents;

(b) pesticides;

(c) microbials;

(d) heavy metals; and

(e) mycotoxins.

(1~~[8]~~9) Cannabinoid isolate shall be accompanied by a COA that complies with the standards included in Section R68-29-5 through Section R68-29-12.

(~~[19]~~20) Cannabinoid isolate shall receive cannabinoid testing from an independent cannabis testing laboratory before being used to create a cannabis derivative product.

TABLE 1 Required Test by Sample Type			
Test	Cannabis Plant Product	Cannabis Concentrate	Cannabis Product
Moisture Content	Required	X	X
Water Activity	Required	X	X
Foreign Matter	Required	Required	Required
Potency	Required	Required	Required
Microbial	Required	Required	Required
Pesticides	Required	Required	Required
Residual Solvents	X	Required	Required
Heavy Metals	Required	Required	Required

### R68-29-4. Sampling Cannabis and Cannabis Products.

(1) The entity that requests testing of a cannabis plant product lot, ~~or~~ cannabis concentrate batch, or cannabis product batch shall make the entirety of the lot or batch available to the sampling technician.

(2) The lot or batch being sampled shall be contained in a single location and physically separated from other lots or batches.

(3) The sample shall be collected by a sampling technician who is unaffiliated with the entity that requested testing of the cannabis lot or cannabis product batch unless an exception is granted by the department.

(4) The owner of the cannabis lot or cannabis product batch and any of their employees ~~[shall]~~may not assist in the selection of the sample.

(5) The sampling technician shall collect the representative sample in a manner set forth in a SOP, that is ISO 17025 compliant, maintained by the laboratory that will perform the testing.

(6) When collecting the representative sample, the sampling technician shall:

- (a) use sterile gloves, instruments, and a glass or plastic container to collect the sample;
- (b) place tamper proof tape on the container; and
- (c) appropriately label the sample pursuant to Section R68-30-6.

(7) For cannabis plant product lots, the sampling technician shall take a [the] minimum representative sample [shall be taken] according to the following schedule:

- (a) 10 subunits with an average weight of one gram each for lots weighing 5 kilograms or less;
- (b) 16 subunits with an average weight of one gram each for lots weighing 5.01-9 kilograms;
- (c) 22 subunits with an average weight of one gram each for lots weighing 9.01-14 kilograms;
- (d) 28 subunits with an average weight of one gram each for lots weighing 14.01-18 kilograms;
- (e) 32 subunits with an average weight of one gram each for lots weighing 18.01-23 kilograms.

(8) For cannabis concentrate, the sampling technician shall take a [the] minimum representative sample [shall be taken] according to the following schedule:

- (a) 10 mL or grams for batches of one liter or kilogram or less; or
- (b) 20 mL or grams for batches of four liters or kilograms or less.

(9) For cannabis products in their final product form, the sampling technician shall take the following minimum number of sample units [~~must be taken~~], the combined total weight of which must be at least 10 grams, not including packaging materials:

- (a) four units for a sample product batch with 5-500 products;
- (b) six units for a sample product batch with 501-1000 products;
- (c) eight units for a sample product batch with 1,001-5,000 products; and
- (d) ten units for a sample product batch with 5,001-10,000 products.

(10) Additional material may be included in the representative sample if the material is necessary to perform the required testing.

#### **R68-29-5. Moisture Content Testing and Water Activity Standards.**

(1) The moisture content of a sample and related lot of cannabis shall be reported on the COA as a mass over mass percentage.

(2) A sample and related lot of cannabis fail quality assurance testing if the water activity of the representative sample is found to be greater than 0.65.

(3) A sample and related cannabis or cannabinoid product batch intended for human consumption fail quality assurance testing if the water activity of the representative sample is greater than 0.65, unless water is a component of the product formulation and is listed as an ingredient.

#### **R68-29-6. Foreign Matter Standards.**

(1) A sample and related lot or batch of cannabis, cannabis product, or cannabinoid product fail quality assurance testing if:

- (a) the sample contains foreign matter visible to the unaided human eye;

(b) the sample is found to contain microscopic foreign matter considered to be harmful or estimated to comprise greater than 3% of the mass of the representative sample as determined by the testing laboratory; or

(c) foreign matter is found that is suspected ~~[to have]~~ of having been intentionally added to the sample to increase its visual appeal or market value[-]; or

(d) for a cannabis plant product, the total number of seeds found is greater than the net weight of the sample collected divided by 1.75.

#### **R68-29-7. Potency Testing.**

(1) A lot or batch of cannabis plant product, cannabis concentrate, or cannabis product shall have its ~~[potency]~~ cannabinoid profile determined and listed on a COA as total THC, total CBD, and the total concentration of any THC analog known to be present.

(2) A lot or batch of cannabis plant product, cannabis concentrate, or cannabis product fail quality assurance testing for cannabinoid content if:

(a) it is not analyzed for each of the analytes listed in Table 2;

(b) the determined amount of any analyte exceeds its action level given in Table 2;

(c) it is found to contain a detectable amount of any of the artificially derived cannabinoids listed in Table 3 as determined by liquid chromatography-mass spectroscopy; or

(d) greater than 10% of the total cannabinoid peak area is comprised of unknown cannabinoids after peaks smaller than 1% of the total peak area have been excluded as determined by high-performance liquid chromatography with a diode array detector (HPLC-DAD).

**TABLE 2**  
**Cannabinoid Components and Action Levels**

Analyte	Chemical Abstract Service	Action Level
<u>Δ9-Tetrahydrocannabinidiol (Δ9-THC)</u>	<u>1972-08-03</u>	<u>No Limit</u>
<u>Δ8-Tetrahydrocannabinidiol (Δ8-THC)</u>	<u>5957-75-5</u>	<u>No Limit</u>
<u>Δ9-Tetrahydrocannabinolic acid (THCA)</u>	<u>23978-85-0</u>	<u>No Limit</u>
<u>Δ9-Tetrahydrocannabivarin (THCV)</u>	<u>31262-37-0</u>	<u>No Limit</u>
<u>Cannabidiol (CBD)</u>	<u>13956-29-1</u>	<u>No Limit</u>
<u>Cannabidiolic acid (CBDA)</u>	<u>1244-58-2</u>	<u>No Limit</u>
<u>Cannabidivarin (CBDV)</u>	<u>24274-48-4</u>	<u>No Limit</u>
<u>Cannabinol (CBN)</u>	<u>521-35-7</u>	<u>No Limit</u>
<u>Cannabigerol (CBG)</u>	<u>25654-31-3</u>	<u>No Limit</u>
<u>Cannabichromene (CBC)</u>	<u>20675-51-8</u>	<u>No Limit</u>
<u>Cannabigerolic acid (CBGA)</u>	<u>25555-57-1</u>	<u>No Limit</u>
<u>Cannabichromenic acid (CBCA)</u>	<u>20408-52-0</u>	<u>No Limit</u>
<u>9R-Δ6a,10a-Tetrahydrocannabinidiol (Δ3-THC)</u>	<u>95720-01-7</u>	<u>1%<sup>1</sup></u>

## NOTICES OF PROPOSED RULES

9S-Δ6a,10a-Tetrahydrocannabinidiol (Δ3-THC)	95720-02-8	1% <sup>1</sup>
(6aR,9R)-Δ10-Tetrahydrocannabinidiol	95543-62-7	1% <sup>1</sup>
(6aR,9S)-Δ10-Tetrahydrocannabinidiol	95588-87-7	1% <sup>1</sup>
Cannabicitran (CBTC)	31508-71-1	2% <sup>1</sup>

<sup>1</sup>If the laboratory performing the testing cannot chromatographically separate 9(R+S)-Δ6a,10a-Tetrahydrocannabinidiol or (6aR,9(R+S))-Δ10-Tetrahydrocannabinidiol, then the action level for the combined isomers will be 1.5%.

TABLE 3 Artificially Derived Cannabinoids	
Analyte	Chemical Abstract Service
Hexahydrocannabinol (HHC)	36403-90-4, 36403-91-5
Tetrahydrocannabinol acetate (THC-OAc)	23132-17-4
3-Heptyl-delta(1)-tetrahydrocannabinol (THCP)	54763-99-4, 51768-60-6

#### R68-29-8. Microbial Standards.

(1) A sample and related lot or batch of cannabis plant product, cannabis concentrate, or cannabis product fail quality assurance testing for microbiological contaminants if the results exceed the limits as set forth in Table [2]4.

(2) Each sample and related lot or batch of cannabis plant product, cannabis concentrate, or cannabis product shall be tested for total aerobic microbial count and total combined yeast and mold. The specific pathogens listed in Table [2]4 may be tested for at the discretion of the department.

TABLE [2]4 Microbial Analytes and Action Levels	
Material	Microbial Limit Requirement (cfu/g or cfu/ml)
Cannabis Plant Product	Total Aerobic Microbial Count ≤100,000 Absence of E. Coli and Salmonella spp. Absence of Aspergillus fumigatus, Aspergillus flavus, Aspergillus niger, and Aspergillus terreus
Cannabinoid Concentrate	Total Aerobic Microbial Count ≤10,000 Total Combined Yeast and Mold Count ≤1,000 Absence of STEC Absence of Pseudomonas Absence of Staph
Orally Consumable Products	Total Aerobic Microbial Count ≤10,000 Total Combined Yeast and Mold Count ≤1,000 Absence of E. Coli and Salmonella spp. Absence of Staph

Transdermal Products	Total Aerobic Microbial Count ≤250 Total Yeast and Mold Count ≤250 Absence of Pseudomonas Absence of Staph
----------------------	---

#### R68-29-9. Pesticide Standards.

(1) Only pesticides allowed by the department may be used in the cultivation of cannabis.

(2) If an independent cannabis laboratory identifies a pesticide that is not allowed under Subsection R68-29-5(1) and is above the action levels provided in Subsection R68-29-5(3) that lot or batch from which the sample was taken has failed quality assurance testing.

(3) A sample and related lot or batch of cannabis, cannabis product, or cannabinoid product fail quality assurance testing for pesticides if the results exceed the limits as set forth in Table [3]5.

TABLE [3]5 Pesticide Analytes and Action Levels			
Analyte	Chemical Service (CAS) number	Abstract Registry	Action Level ppm
Abamectin	71751-41-2		0.5
Acephate	30560-19-1		0.4
Acequinocyl	57960-19-7		2
Acetamiprid	135410-20-7		0.2
Aldicarb	116-06-3		0.4
Azoxystrobin	131860-33-8		0.2
Bifenazate	149877-41-8		0.2
Bifenthrin	82657-04-3		0.2
Boscalid	188425-85-6		0.4
Carbaryl	63-25-2		0.2
Carbofuran	1563-66-2		0.2
Chlorantraniliprole	500008-45-7		0.2
Chlorfenapyr	122453-73-0		1
Chlorpyrifos	2921-88-2		0.2
Clofentezine	74115-24-5		0.2
Cypermethrin	52315-07-8		1
Daminozide	1596-84-5		1
DDVP (Dichlorvos)	62-73-7		0.1
Diazinon	333-41-5		0.2
Dimethoate	60-51-5		0.2
Ethoprophos	13194-48-4		0.2
Etofenprox	80844-07-1		0.4
Etoazoxole	153233-91-1		0.2
Fenoxycarb	72490-01-8		0.2
Fenpyroximate	134098-61-6		0.4
Fipronil	120068-37-3		0.4
Flonicamid	158062-67-0		1
Fludioxonil	131341-86-1		0.4
Hexythiazox	78587-05-0		1
Imazalil	35554-44-0		0.2
Imidacloprid	138261-41-3		0.4
Kresoxim-methyl	143390-89-0		0.4
Malathion	143390-89-0		0.2
Metalaxyl	57837-19-1		0.2
Methiocarb	2032-65-7		0.2
Methomyl	16752-77-5		0.4
Methyl parathion	298-00-0		0.2

MGK-264	113-48-4	0.2
Myclobutanil	88671-89-0	0.2
Naled	300-76-5	0.5
Oxamyl	23135-22-0	1
Paclobutrazol	76738-62-0	0.4
Permethrins	52645-53-1	0.2
Phosmet	732-11-6	0.2
Piperonyl butoxide	51-03-6	2
Prallethrin	23031-36-9	0.2
Propiconazole	60207-90-1	0.4
Propoxur	114-26-1	0.2
Pyrethrins	8003-34-7	1
Pyridaben	96489-71-3	0.2
Spinosad	168316-95-8	0.2
Spiromesifen	283594-90-1	0.2
Spirotetramat	20313-25-1	0.2
Spiroxamine	118134-30-8	0.4
Tebuconazole	80443-41-0	0.4
Thiacloprid	111988-49-9	0.2
Thiamethoxam	153719-23-4	0.2
Trifloxystrobin	141517-21-7	0.2

(4) Permethrins should be measured as cumulative residue of cis- and trans-permethrin isomers (CAS numbers 54774-45-7 and 51877-74-8).

(5) Pyrethrins should be measured as the cumulative residues of pyrethrin I (CAS 121-21-1), pyrethrin II (CAS 121-29-9), cinerin 1 (CAS 25402-06-6), and jasmolin 1 (CAS 4466-14-2).

(6) Abamectin is a composite of the amounts of avermectin B1a and avermectin B1b.

#### R68-29-10. Residual Solvent Standards.

(1) A sample and related lot or batch of cannabis plant product, cannabis concentrate, or cannabis product fails quality assurance testing for residual solvents if the results exceed the limits provided in Table [4]6 unless the solvent is:

- (a) a component of the product formulation;
- (b) listed as an ingredient; and
- (c) generally considered to be safe for the intended form of use.

TABLE [4]6 List of Solvents and Action Levels		
Solvent	Chemical Abstract Service (CAS) Registry number	Action level ppm
1,2 Dimethoxyethane	110-71-4	100
1,4 Dioxane	123-9	380
1-Butanol	71-36-3	5,000
1-Pentanol	71-41-0	5,000
1-Propanol	71-23-8	5,000
2-Butanol	78-92-2	5,000
2-Butanone	78-93-3	5,000
2-Ethoxyethanol	110-80-5	160
2-methylbutane	78-78-4	5,000
2-Propanol (IPA)	67-63-0	5,000
Acetone	67-64-1	5,000

Acetonitrile	75-05-8	410
Benzene	71-43-2	2
Butane	106-97-8	5,000
Cumene	98-82-8	70
Cyclohexane	110-82-7	3,880
Dichloromethane	75-09-2	600
2,2-dimethylbutane	75-83-2	290
2,3-dimethylbutane	79-29-8	290
1,2-dimethylbenzene	95-47-6	See Xylenes
1,3-dimethylbenzene	108-38-3	See Xylenes
1,4-dimethylbenzene	106-42-3	See Xylenes
Dimethyl sulfoxide	67-68-5	5,000
Ethanol	64-17-5	5,000
Ethyl acetate	141-78-6	5,000
Ethylbenzene	100-41-4	See Xylenes
Ethyl ether	60-29-7	5,000
Ethylene glycol	107-21-1	620
Ethylene Oxide	75-21-8	50
Heptane	142-82-5	5,000
n-Hexane	110-54-3	290
Isopropyl acetate	290	5,000
Methanol	67-56-1	3,000
Methylpropane	75-28-5	5,000
2-Methylpentane	107-83-5	290
3-Methylpentane	96-14-0	290
N,N-dimethylacetamide	127-19-5	1,090
N,N-dimethylformamide	68-12-2	880
Pentane	109-66-0	5,000
Propane	74-98-6	5,000
Pyridine	110-86-1	100
Sulfolane	126-33-0	160
Tetrahydrofuran	109-99-9	720
Toluene	108-88-3	890
Xylenes	1330-20-7	2,170

(2) Xylenes is a combination of the following:

- (a) 1,2-dimethylbenzene;
- (b) 1,3-dimethylbenzene;
- (c) 1,4-dimethylbenzene; and
- (d) ethyl benzene.

#### R68-29-11. Heavy Metal Standards.

A sample and related lot or batch of cannabis plant product, cannabis concentrate, cannabis product, or vaporizer cartridges fail quality assurance testing for heavy metals if the results exceed the limits provided in Table [5]7.

TABLE [5]7 Heavy Metals	
Metals	Natural Health Products Acceptable limits in parts per million
Arsenic	<2
Cadmium	<0.82
Lead	<1.2
Mercury	<0.4

#### R68-29-12. Mycotoxin Standards.

A sample and related lot or batch of cannabis plant product, cannabis concentrate, or cannabis product fail quality assurance

## NOTICES OF PROPOSED RULES

testing for mycotoxin if the results exceed the limits provided in Table [6]8.

TABLE [6]8 Mycotoxin	
Test	Specification
The Total of	
Aflatoxin B1,	
Aflatoxin B2,	
Aflatoxin G1, and	
Aflatoxin G2	<20 ppb of substance
Ochratoxin A.	<20 ppb of substance

**KEY: cannabis testing, quality assurance, cannabis laboratory**  
**Date of Last Change:** ~~August 31, 2023~~ 2024  
**Authorizing, and Implemented or Interpreted Law:** 4-41a-701(3)

### NOTICE OF PROPOSED RULE

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R151-4</b>	<b>Filing ID:</b> <b>56172</b>
--------------------------------	---------------	-----------------------------------

### Agency Information

<b>1. Department:</b>	Commerce	
<b>Agency:</b>	Administration	
<b>Street address:</b>	160 E 300 S, 2nd Floor	
<b>City, state and zip:</b>	Salt Lake City, UT 84111	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Masuda Medcalf	801-530-7663	mmedcalf@utah.gov

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

### General Information

<b>2. Rule or section catchline:</b>
R151-4. Department of Commerce Administrative Procedures Act Rule
<b>3. Purpose of the new rule or reason for the change:</b>
The purpose of this amendment is to clarify proceedings, including that interlocutory appeals are not permitted and the process for obtaining a hearing extension.
This rule is also updated to meet the Rulewriting Manual for Utah requirements consistent with Executive Order No. 2021-12.
<b>4. Summary of the new rule or change:</b>
This amendment clarifies that interlocutory appeals are not permitted under the Utah Administrative Procedures Act.

The other change is to eliminate the requirement for the Executive Director to approve every hearing timeline extension beyond 240 days. This approval is unnecessary and may create a process holdup. Discretion is appropriately placed on the presiding officer of the hearing for this function.

Several nonsubstantive changes were made to correct the statutory reference in Subsection R151-4-901(2)(d)(ii) and to ensure this rule complies with the Rulewriting Manual for Utah requirements.

### Fiscal Information

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

##### A) State budget:

This rule does not amend fees or any revenue generation for the state and will not affect the state budget.

##### B) Local governments:

Local governments are typically not involved in administrative hearings before the Department of Commerce (Department) and are not impacted by this amendment.

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

This rule is procedural in nature and has no discernable impact on the costs required for a small business to appear in a matter before the Department.

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

This rule is procedural in nature and has no discernable impact on the costs required for a non-small business to appear in a matter before the Department.

##### 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 is procedural in nature and has no discernable impact on the costs required for persons other than small businesses to appear in a matter before the Department.

##### 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.

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

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

#### Regulatory Impact Table

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

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

The Executive Director of the Department of Commerce, Margaret W. Busse, 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 63-4-102(6)	Section 13-1-6	
------------------------	----------------	--

#### 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:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

#### Agency Authorization Information

<b>Agency head or designee and title:</b>	Margaret W. Busse, Executive Director	<b>Date:</b>	09/29/2023
---	---------------------------------------	--------------	------------

#### R151. Commerce, Administration.

##### R151-4. Department of Commerce Administrative Procedures Act Rule.

##### R151-4-101. Title and Organization.

This rule is:

- (1) known as the "Department of Commerce Administrative Procedures Act Rule;" and
- (2) organized into the following Parts:
  - (a) Part 1, General Provisions, including Sections R151-4-101 through R151-4-114;
  - (b) Part 2, Pleadings, including Sections R151-4-201 through R151-4-205;
  - (c) Part 3, Motions, including Sections R151-4-301 through R151-4-306;
  - (d) Part 4, Filing and Service, including Sections R151-4-401 through R151-4-402;
  - (e) Part 5, Discovery - Formal Proceedings, including Sections R151-4-501 through R151-4-516;
  - (f) Part 6, Depositions - Formal Proceedings, including Sections R151-4-601 through R151-4-611;
  - (g) Part 7, Hearings, including Sections R151-4-701 through R151-4-712;
  - (h) Part 8, Orders, including Sections R151-4-801 through R151-4-803; and
  - (i) Part 9, Agency Review and Judicial Review, including Sections R151-4-901 through R151-4-907.

##### R151-4-102. Definitions.

In addition to the definitions in Title 63G, Chapter 4, Administrative Procedures Act, as used in this rule:

- (1) "Agency head" means the executive director of the department or the director of a division.
- (2) "Applicant" means a person who submits an application.
- (3) "Application" means a request for:
  - (a) licensure;
  - (b) certification;
  - (c) registration;
  - (d) permit; or
  - (e) other right or authority granted by the department.
- (4) "Department" means:
  - (a) the Utah Department of Commerce; or
  - (b) a division of the department.
- (5) "Division" means a division of the department.
- (6) "Electronic" means a:
  - (a) facsimile transmission; or

## NOTICES OF PROPOSED RULES

- (b) PDF file attached to an email.
  - (7) "Intervenor" means a person permitted to intervene in an adjudicative proceeding before the department.
  - (8) "Motion" means a request for any action or relief in an adjudicative proceeding.
  - (9)(a) "Party in interest" means:
    - (i) a party;
    - (ii) a relative of a party; or
    - (iii) an individual with a financial interest in the outcome of the proceeding.~~[+and]~~
  - (b) "Party in interest" does not include:
    - (i) a party's counsel; or
    - (ii) an employee of a party's counsel.
  - (10) "Petition" means the charging document setting forth:
    - (a) statement of jurisdiction;
    - (b) statement of one or more allegations;
    - (c) statement of legal authority; and
    - (d) request for relief.
  - (11) "Pleading" means the following:
    - (a) a notice of agency action or request for agency action;
    - (b) a request for agency review or agency reconsideration;
- and
- (c) a response or reply submitted to a pleading.

### **R151-4-103. Authority.**

The department adopts this rule ~~[is adopted]~~ in accordance with Subsection 63G-4-102(6) and Section 13-1-6 to govern adjudicative proceedings before the department.

### **R151-4-104. Supplementing Provisions.**

~~[This]~~ A division rule may ~~[be]~~ supplement ~~[ed by a division]~~ this rule unless expressly prohibited by this rule.

### **R151-4-105. Purpose and Scope.**

- (1) ~~The intent of this rule is [intended]~~ to secure the just, speedy, and economical determination of issues presented in adjudicative proceedings before the department.
- (2) In the event of a conflict between this rule and a statute, the statute governs.

### **R151-4-106. Utah Rules of Civil Procedure.**

The Utah Rules of Civil Procedure and related case law are persuasive authority in this rule but may not, except as otherwise provided by Title 63G, Chapter 4, Administrative Procedures Act or by this rule, be ~~[considered]~~ controlling authority.

### **R151-4-107. Computation of Time.**

- (1) Periods of time in department proceedings shall:
  - (a) exclude the first day of the act, event, or default from which the time begins to run; and
  - (b) include the last day unless it is a Saturday, Sunday, or legal holiday; in that case the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.
- (2) When a period of time is less than seven days, Saturdays, Sundays, and legal holidays are excluded.
- (3)(a)(i) When a period of time runs after the service of a document by mail, three days shall be added to the end of the prescribed period.
- (ii) Except as provided in Subsection R151-4-107(1)(b), these three days include Saturdays, Sundays, and legal holidays.
- (b) No additional time is provided if service is accomplished by electronic means.

- (4) Subsection (3) does not apply to a request for agency review filing made pursuant to Subsection R151-4-901(1).

### **R151-4-108. Timeliness of Administrative Proceedings.**

In both informal and formal proceedings, the presiding officer shall schedule the hearing date ~~[shall be scheduled to provide for]~~ and conclude the hearing ~~[to be concluded]~~ not more than 180 calendar days after the day:

- (1) the notice of agency action is issued; or
- (2) the initial decision as to a request for agency action is issued.

### **R151-4-109. Extension of Time and Continuance of Hearing.**

- (1) When ruling on a motion or request for extension of time or continuance of a hearing, the presiding officer shall consider:

- (a) whether there is good cause for granting the extension or continuance;
- (b) the number of extensions or continuances the requesting party has already received;
- (c) whether the extension or continuance will work a significant hardship upon the other party;
- (d) whether the extension or continuance will be prejudicial to the health, safety or welfare of the public; and
- (e) whether the other party objects to the extension or continuance.

- (2)(a) Except as provided in Subsection R151-4-109(2)(b), an extension of a time period or a continuance of a hearing may not result in the hearing being concluded more than 240 calendar days after the day:

- (i) the notice of agency action was issued; or
- (ii) the initial decision as to a request for agency action was issued.

- (b) An extension of a time period or a continuance may exceed the time restriction in Subsection R151-4-109(2)(a) ~~[only]~~ if:

- (i)(A) a party provides an affidavit or certificate signed by a licensed physician verifying that an illness of the party, the party's counsel, or a necessary witness precludes the presence of the party, the party's counsel, or a necessary witness at the hearing;

- (B) counsel for a party withdraws shortly before the final hearing, unless the presiding officer finds the withdrawal was to delay the hearing; in that case the hearing will go forward with or without counsel;

- (C) a parallel criminal proceeding or investigation exists based on facts at issue in the administrative proceeding; in that case the continuance shall address the expiration of the continuance upon the conclusion of the criminal proceeding; or

- (D) the board or commission designated to act as the factfinder at hearing is unavailable to meet on a date that:

- (I) allows the parties a reasonable period ~~[of time]~~ for discovery, motion practice, or hearing preparation; and

- (II) falls within the 240-day deadline for resolution; and
- (ii) the presiding officer finds that injustice would result from failing to grant the extension or continuance.

- ~~[(c)(i) If the presiding officer considers that extenuating circumstances not contemplated in Subsection R151-4-109(2)(b) justify a continuance beyond the 240-day deadline, the presiding officer shall file a written request for continuance with the executive director.]~~

- ~~[(ii) A party may not directly petition the executive director for a continuance.]~~

- ~~[(iii) The executive director's decision on the presiding officer's request for continuance shall be issued on an interlocutory~~



~~basis, not subject to a request for reconsideration or judicial review until after a final order on the merits is issued.~~

~~—(d)(3)~~ The failure to conclude a hearing within the required time period is not a basis for dismissal.

~~[(3)(4)]~~ The presiding officer may not grant an extension of time or continuance ~~[that is not authorized by]~~ if a statute or rule does not authorize it.

~~[(4)(5)]~~ The factors in Subsection (1) do not apply to a request for agency review filing made pursuant to Subsection R151-4-901(1)(a). ~~[A] Subsection R151-4-901(1)(c) governs a request for an extension to file a request for agency review[is governed by Subsection R151-4-901(1)(e)].~~

#### **R151-4-110. Representation of Parties.**

(1) A party may:

- (a) be represented by counsel who is an active member of a state bar if counsel submits a written notice of appearance;
- (b) represent oneself individually; or
- (c) if not an individual, represent itself through an officer or employee.

(2) Counsel licensed by the bar of a state other than Utah shall submit a certificate of good standing from the relevant state bar.

#### **R151-4-111. Review of Emergency Orders.**

Unless otherwise provided by statute or rule:

(1)(a) A division shall schedule a hearing to determine whether an emergency order should be affirmed, set aside, or modified based on the standards in Section 63G-4-502 if:

(i) the division has previously:

(A) commenced an emergency adjudicative proceeding in the matter; and

(B) issued an order in accordance with Section 63G-4-502 that results in a continued impairment of the affected party's rights or legal interests; and

(ii) the affected party timely submits a written request for a hearing.

(b) A presiding officer shall conduct a hearing under this section ~~[shall be conducted]~~ in conformity with the procedures of Section 63G-4-206.

(2)(a) Upon request for a hearing under this section, the division shall conduct a hearing as soon as reasonably practical but not later than 20 days from the receipt of a written request unless the division and the party requesting the hearing agree in writing to conduct the hearing at a later date.

(b) The division has the burden of proof to establish, by a preponderance of the evidence, that the requirements of Section 63G-4-502 have been met.

(3)(a) Except as otherwise provided by statute, the division director or designee shall select an individual or body of individuals to act as presiding officer at the hearing.

(b) An individual who directly participated in issuing the emergency order may not act as the presiding officer.

(4)(a) Within 15 calendar days after the day the hearing to consider the emergency order concludes, the presiding officer shall issue an order in accordance with Section 63G-4-208.

(b) The order of the presiding officer is subject to agency review.

#### **R151-4-112. Declaratory Orders.**

(1)(a) A petition for the issuance of a declaratory order under Section 63G-4-503 shall be filed with the agency head who has

primary jurisdiction to enforce or implement the statute, rule, or order for which a declaratory order is sought.

(b) The petition shall:

(i) set forth:

(A) the question to be answered;

(B) the facts and circumstances related to the question;

(C) the statute, rule, or order to be applied to the question;

and

(D) whether oral argument is sought in conjunction with the petition; and

(ii) comply with Part 2, Pleadings.

(2)(a) If the agency head issues a declaratory order without setting the matter for an adjudicative proceeding, the order shall be based on:

(i) a review of the petition;

(ii) oral argument, if any;

(iii) laws and rules applicable to the petition;

(iv) applicable records maintained by the department; and

(v) other relevant information reasonably available to the department.

(b) If the agency head sets the matter for an adjudicative proceeding, the department shall issue a notice of adjudicative proceeding under Subsection 63G-4-201(2)(a).

(3) The department may not issue a declaratory order in any of the following classes of circumstances:

(a) questions involving circumstances set forth in Subsection 63G-4-503(3)(a)(ii) ~~[-] or 63G-4-503(3)(b);~~

(b) questions that are not within the jurisdiction of the department;

(c) questions that have been addressed by the department in an order, rule, or policy;

(d) questions that can be addressed by informal advice;

(e) questions that are addressed by statute;

(f) questions that would be more properly addressed by statute or rule;

(g) questions that arise out of pending or anticipated litigation in a civil, criminal, or administrative forum; or

(h) questions that are irrelevant, insignificant, meaningless, or spurious.

(4) The recipient of a declaratory order may request agency review.

#### **R151-4-113. Record of an Adjudicative Proceeding.**

The record of an adjudicative proceeding includes:

(1) each pleading, motion, brief, exhibit, and any other document filed by a party;

(2) the recording of a hearing;

(3) a transcript of a hearing; and

(4) orders or other documents issued:

(a) by a presiding officer; or

(b) on agency review or reconsideration.

#### **R151-4-114. Informal Adjudicative Proceedings in General and Prohibition of Discovery.**

(1) Any provision specific to a formal adjudicative proceeding is not mandatory for an informal adjudicative proceeding.

## NOTICES OF PROPOSED RULES

(2) By rule or order a division may apply a provision applicable to a formal adjudicative proceeding to an informal adjudicative proceeding, except that a division may not apply a provision relating to discovery, including depositions~~[- may not be applied]~~ to an informal adjudicative proceeding.

(3) Discovery is prohibited in informal adjudicative proceedings, but the department or a division may issue subpoenas or other orders to compel production of evidence in accordance with Subsection 63G-4-203(1)(c).

### **R151-4-201. Docket Number and Title.**

(1) The department shall assign a docket number to each notice of agency action and, if appropriate, to each request for agency action.

(2) At a minimum the docket number shall consist of:

(a) a letter code identifying where the matter originated, as follows:

(i) CORP-Corporations;

(ii) CP-Consumer Protection;

(iii) DOPL-Professional Licensing, including additional designations that the division may implement for the Utah Professionals Health Program, lien recovery fund, or other programs;

(iv) NAFA-New Automobile Franchise Act;

(v) PVFA-Powersport Vehicle Franchise Act;

(vi) RE-Real Estate;

(vii) AP-Real Estate Appraisers;

(viii) MG-Mortgage; and

(ix) SD-Securities;

(b) a numerical code indicating the calendar year the matter arises; and

(c) another number indicating chronological position among notices of agency action or requests for agency action filed during the year.

(3) The department shall give each adjudicative proceeding a title in substantially the following form:

TABLE 1	
BEFORE THE (DIVISION) OF THE DEPARTMENT OF COMMERCE OF THE STATE OF UTAH	
In the Matter of (the application, petition, or license of John Doe)	(Notice of Agency Action) (Request for Agency Action)  No. AA-2000-001

### **R151-4-202. Content and Size of Pleadings and Motions and Limitation of Number of Pages.**

(1) A pleading or motion shall be double-spaced, typewritten, presented on standard 8 1/2 x 11 inch white paper, and contain:

(a) a clear and concise statement of the allegations or facts relied upon as the basis for the pleading or motion; and

(b) an appropriate request for relief when relief is sought.

(2) A motion to dismiss or motion for summary judgment may not exceed 25 pages, not counting any attachment, unless a longer motion is permitted by the presiding officer. Other motions may not exceed 15 pages, not counting the attachments, unless a longer motion is permitted by the presiding officer.

(3) If the motion is a motion to dismiss or motion for summary judgment, the memorandum opposing the motion may not exceed 25 pages, not counting the attachments, unless a longer

memorandum is permitted by the presiding officer. Other opposing memoranda may not exceed 15 pages, not counting the attachments, unless a longer memorandum is permitted by the presiding officer.

(4) If the motion is a motion to dismiss or motion for summary judgment, the reply memorandum may not exceed 15 pages, not counting the attachments, unless a longer memorandum is permitted by the presiding officer. Other reply memoranda may not exceed 10 pages, not counting the attachments, unless a longer memorandum is permitted by the presiding officer.

(5) A memorandum supporting agency review in accordance with Section R151-4-904 may not exceed 30 pages not counting the attachments, unless a longer memorandum is permitted by the presiding officer assigned to the agency review.

(6) A response to a request for agency review and the memorandum supporting that response may not exceed 30 pages not counting the attachments, unless a longer memorandum is permitted by the presiding officer assigned to the agency review.

(7) A reply memorandum filed in an agency review may not exceed 15 pages not counting the attachments, unless a longer memorandum is permitted by the presiding officer assigned to the agency review.

(8) The presiding officer may permit a party to file an overlength motion or memorandum upon a showing of good cause. An overlength motion or memorandum shall include a table of contents and a table of authorities with page references. The presiding officer may rule on a motion for overlength motion or memorandum without waiting for a response. A motion for overlength motion or memorandum does not require a~~[No]~~ statement of facts and legal authorities beyond a concise statement of the relief requested~~[-is required in a motion for overlength motion or memorandum]~~.

### **R151-4-203. Signing of Pleadings and Motions.**

(1) Any pleading or motion shall be signed by the party or the party's representative and shall show the signer's address.

(2) The signature is a certification that:

(a) the signer has read the pleading or motion; and

(b) to the best of the signer's knowledge and belief, there are good grounds to support the pleading or motion.

### **R151-4-204. Amendments to Pleadings.**

(1)(a) A party may amend a pleading once as a matter of course at any time before a responsive pleading is served.

(b) A party that does not qualify to amend a pleading under Subsection (1)(a) may amend a pleading only by leave of the presiding officer or by written consent of the adverse party.

(2) A party shall respond to an amended pleading within the later of:

(a) the time remaining for response to the original pleading; or

(b) ten days after service of the amended pleading.

(3) Defects in a pleading that do not affect substantial rights of a party need not be amended and shall be disregarded.

### **R151-4-205. Response to a Notice of Agency Action.**

(1) A respondent in a formal adjudicative proceeding shall file a response to the notice of agency action.

(2)(a) A respondent in an informal adjudicative proceeding may file a response to a notice of agency action.

(b) The presiding officer may, by a written order, require a respondent in an informal adjudicative proceeding to submit a response.

(3) Unless a law or rule establishes a different date [is established by law or rule] the following shall be filed within 30 days after the mailing date of the notice:

- (a) a response to a notice of agency action; or
- (b) a notice of receipt of request for agency action.

#### **R151-4-301. General Provisions.**

(1) A party may file a motion that is relevant and timely.  
 (2) Each motion shall be filed in writing unless the necessity for a motion arises at a hearing and could not have been anticipated before the hearing.

(3) Subsection 63G-4-102(4)(b) may not be construed to prohibit a presiding officer from granting a timely motion to dismiss for:

- (a) failure to prosecute;
- (b) failure to comply with this rule, except when this rule expressly provides that a matter is not a basis for dismissal;
- (c) failure to establish a claim upon which relief may be granted; or
- (d) other good cause basis.

#### **R151-4-302. Motion to Dismiss.**

(1) A party wishing to file a motion to dismiss on any grounds described in Rule 12(b)(1) through 12(b)(7) of the Utah Rules of Civil Procedure, shall file the motion [be filed] before filing a responsive pleading.

(2) In a case that is under agency review:

- (a) a party may file a motion to dismiss [may be brought] for:
  - (i) failure to comply with a jurisdictional deadline;
  - (ii) failure to file a hearing transcript; or
  - (iii) failure to file a required memorandum.
- (b) A party may not file a motion to dismiss [may not be brought] on an allegation or argument as to:
  - (i) the sufficiency of a pleading or a memorandum in support;
  - (ii) the sufficiency of the evidence; or
  - (iii) any other issue that requires substantive analysis.

#### **R151-4-303. Memoranda and Affidavits.**

(1) The presiding officer shall permit and may require memoranda and affidavits in support of, or in response to, a motion.

(2) Unless otherwise governed by a scheduling order issued by the presiding officer:

- (a) a party shall file memoranda or affidavits in support of a motion [shall be filed] concurrently with the motion;
- (b) memoranda or affidavits in response to a motion shall be filed no later than 14 days after service of the motion; and
- (c) a final reply shall be filed no later than seven days after service of the response.

#### **R151-4-304. Oral Argument.**

(1) The presiding officer may permit or require oral argument on a motion.

(2) The presiding officer shall schedule [or] oral argument on a motion [shall be scheduled] to take place no more than 10 days after the last day the party:

- (a) who did not make the motion could have filed a response if that party does not file a response; or
  - (b) the party who made the motion:
    - (i) replies to the opposing party's response to the motion;
- or

(ii) could have replied to the opposing party's response to the motion.

#### **R151-4-305. Ruling on a Motion.**

(1) The presiding officer shall verbally rule on a motion at the conclusion of oral argument when possible.

(2) When a presiding officer verbally rules on a motion, the presiding officer shall issue a written ruling within 30 calendar days after the day the presiding officer makes the verbal ruling.

(3) If the presiding officer does not verbally rule on a motion at the conclusion of oral argument, the presiding officer shall issue a written ruling on the motion no more than 30 calendar days after:

- (a) oral argument; or
- (b) if there is no oral argument, the final submission on the motion as outlined in Subsection R151-4-304(2).

(4) The failure of the presiding officer to comply with the requirements of Section R151-4-305:

- (a) is not a basis for dismissal of the matter; and
- (b) [may not be considered] is not an automatic denial or grant of the motion.

#### **R151-4-306. Recusal or Motion to Disqualify a Board or Commission Member.**

(1) A board or commission member may self recuse at any time from participation in an action before the board or commission, even if a party to the action has not requested the member's recusal or filed a motion to disqualify the member.

(2)(a) A party to an action before a board or commission may file a motion to disqualify a board or commission member. The motion shall be accompanied by a certificate that the motion is filed in good faith and shall be supported by an affidavit or unsworn declaration as described in Title 78B, Chapter 18a, Uniform Unsworn Declarations Act stating facts sufficient to show bias, prejudice, or conflict of interest.

(b) The party shall file the motion [shall be filed] after commencement of the action, but no later than 21 days after the last of the following:

- (i) the date of service of the action or hearing on the respondent;
- (ii) the date the moving party knew or should have known of the grounds upon which the motion is based; or
- (iii) if the last event occurs fewer than 21 days before a hearing, the motion shall be filed as soon as practicable.

(c) No party may file more than one motion to disqualify in an action, unless the second or substitute motion is based on grounds that the party did not know of and could not have known at the time of the earlier motion.

(d) If timeliness of the motion is determined under Subsection (2)(b)(ii) or (2)(c), the affidavit or declaration supporting the motion shall state when and how the party came to know of the reason for disqualification.

(3) Within seven days of receipt of the motion by the presiding officer, the presiding officer shall provide a copy of the motion to the board or commission member who is the subject of the motion.

(4)(a) The decision on a motion to disqualify a board or commission member shall be made by the presiding officer, and a written decision is not necessary.

(b) The division or moving party may not subject the board or commission member to questioning or examination on the motion, but the presiding officer or the board or commission may question

## NOTICES OF PROPOSED RULES

the member verbally or in writing before issuing a decision on the motion.

(5) A recused or disqualified board or commission member may not participate with fellow board or commission members in the action and is prohibited from voting on the action.

(6) A decision on a motion to disqualify a board or commission member is not subject to an interlocutory appeal or agency review.

(7) This section does not apply to any adjudicative proceedings under Title 13, Chapter 14, New Automobile Franchise Act, or Title 13, Chapter 35, Powersport Vehicle Franchise Act.

### **R151-4-401. Filing.**

(1)(a) Any pleading or motion shall be filed with the department or division where the adjudicative proceeding is conducted and maintains the official file.

(b) ~~[F]Section R151-4-512 governs the filing of discovery documents[is governed by Section R151-4-512].~~

(2)(a) A filing may be accomplished by:

(i) hand delivery of a paper copy, pursuant to Subsection (2)(b)(i);

(ii) first class or certified mail, postage prepaid, of a paper copy, pursuant to Subsection (2)(b)(i); or

(iii) fax or attachment to electronic mail pursuant to Subsection (2)(b)(ii).

(b)(i) A filing by hand delivery or first class or certified mail is complete when it is received and date stamped by the department or division, as applicable.

(ii) A filing by fax or electronic mail is complete upon transmission, if:

(A) compliant with Subsection (1);

(B) completed and received during the department's operating hours, 8 a.m. to 5 p.m. Mountain Time, on days other than Saturdays, Sundays, or state or federal holidays;

(C) the recipient receives the complete document; and~~[7]~~

(D) the party filing the document:

(I) also mails the document to the department or division the same day, as evidenced by a postmark; or

(II) before any applicable filing deadline, is expressly excused by the presiding officer from mailing the document.

(c) The burden is on the party filing the document to ensure that a filing is properly completed.

### **R151-4-402. Service.**

(1)(a) A pleading or motion filed by the parties shall be concurrently served on each party and any administrative law judge who is assigned to the case. Documents issued by the presiding officer shall be concurrently served on each party.

(b) The party who files a pleading or motion is responsible for service of the pleading or motion.

(c) The presiding officer who issues a document is responsible for service of the document.

(2)(a) Service may be made:

(i) on a person upon whom a summons may be served pursuant to the Utah Rules of Civil Procedure; and

(ii) personally or on the agent of the person being served.

(b) If a party is represented by an attorney, service shall be made on the attorney.

(3)(a) Service may be accomplished by hand delivery of a paper copy, by mail of a paper copy to the last known address of the intended recipient, or by attachment to electronic mail.

(b) Service by hand delivery is complete upon delivery to:

(i) the person who is required to be served;

(ii) any individual who is employed by, and physically present at, the business office of the person who is required to be served; or

(iii) a mailbox or drop box that is:

(A) assigned to the person who is required to be served;

and

(B) physically located at the person's place of business.

(c) Service by mail is complete upon mailing, as evidenced by a postmark.

(d) Service by attachment to electronic mail is complete on transmission if transmission is completed during normal business hours, 8 a.m. to 5 p.m. on days other than Saturdays, Sundays, and state and federal holidays, at the place receiving the service; otherwise, service is complete on the next business day.

(4) There shall appear on each document required to be served a certificate of service in substantially the following form:

TABLE 2

#### CERTIFICATE OF SERVICE

I certify that I have this day served the foregoing document on the parties of record in this proceeding set forth below (by delivering a copy in person) (by mailing a copy, properly addressed by first class mail with postage prepaid, to) (by electronic means to):

(Name of parties of record)

(Address)

Dated this (day) day of (month), (year).

(Signature)

(Name and Title)

### **R151-4-501. Applicability.**

Sections R151-4-501 through R151-4-516 apply only to formal adjudicative proceedings.

### **R151-4-502. Scope of Discovery.**

(1) Parties may obtain discovery regarding a matter that:

(a) is not privileged;

(b) is relevant to the subject matter involved in the proceeding; and

(c) relates to a claim or defense:

(i)(A) of the party seeking discovery; or

(B) of another party;

(ii) that is set forth in a pleading; and

(iii) that is brought pursuant to a statement of fact, information, or belief.

(2)(a) Subject to Subsection R151-4-502(3) and Section R151-4-504, a party may obtain discovery of documents and tangible things otherwise discoverable under Subsection R151-4-502(1) and prepared in anticipation of litigation or for hearing by another party or for another party or by that party's representative or for that party's representative, including the party's attorney, consultant, insurer or other agent, only on a showing that the party seeking discovery:

(i) has substantial need of the materials in the preparation of the case; and

(ii) is unable without undue hardship to obtain the substantial equivalent of the materials by other means.

(b) In ordering discovery of materials described in Subsection R151-4-502(2)(a), the presiding officer shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney of a party.

(3) Discovery of facts known and opinions held by experts, otherwise discoverable under Subsection R151-4-502(1) and acquired or developed in anticipation of litigation or for hearing, may be obtained only through the disclosures required by Section R151-4-504.

#### **R151-4-503. Disclosures Required by Prehearing Order.**

(1) In the prehearing order the presiding officer may require each party to disclose in writing:

(a)(i) the name and, if known, the address and telephone number of each individual likely to have discoverable information supporting the party's claims or defenses; and

(ii) identification of the topic addressed in the information maintained by each individual; and

(b)(i) a copy of each discoverable document, data compilation, and tangible thing that:

(A) is in the party's possession, custody, or control; and

(B) supports the party's claims or defenses; or

(ii)(A) a description, by category and location, of the tangible things identified in Subsection R151-4-503(1)(b)(i); and

(B) reasonable access.

(2)(a) The order may not require disclosure of expert testimony as governed by Section R151-4-504.

(b) The order ~~shall~~may not require the disclosure of information regarding persons or things intended to be used solely for impeachment.

(3)(a) Each party shall make the disclosures required by Subsection R151-4-503(1) within 14 days after the prehearing order is issued.

(b) A party joined after the prehearing conference shall make these disclosures within 30 days after being served.

(c) A party shall make initial disclosures based on the information then reasonably available and is not excused from making disclosures because:

(i) the party has not fully completed the investigation of the case;

(ii) the party challenges the sufficiency of another party's disclosures; or

(iii) another party has not made disclosures.

(4) Disclosures required under Section R151-4-503 shall be made in writing, signed, and served.

#### **R151-4-504. Disclosures Otherwise Required.**

(1)(a) A party shall:

(i) disclose in writing the name, address and telephone number of any person who might be called as an expert witness at the hearing; and

(ii) provide a written report signed by the expert that contains a complete statement of each opinion the expert will offer at the hearing and the basis and reasons for them.

(b) The expert may not testify in a party's case-in-chief concerning any matter not fairly disclosed in the report.

(c) The party offering the expert shall pay the costs for the report.

(d) Unless otherwise stipulated in writing by the parties or ordered in writing by the presiding officer, the disclosures required by Subsection R151-4-504(1) shall be made:

(i) within 30 days after the deadline for completion of discovery; or

(ii) if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party under Subsection R151-4-504(1)(a), within 60 days after the disclosure made by the other party.

(e) If either party fails to file its disclosure within the time frames in Subsection R151-4-504(1), the presiding officer:

(i) shall exclude the expert testimony from the proceeding; and

(ii) may not continue the hearing to allow additional time for the disclosures.

(2)(a) In addition to the disclosures required by Subsection R151-4-504(1), a party shall disclose information regarding evidence the party may present at hearing other than solely for impeachment purposes pursuant to the pretrial disclosures of Utah Rules of Civil Procedure, Rule 26.

(b)(i) The disclosures required by Subsection R151-4-504(2) shall be made at least 45 days before the hearing.

(ii) Within 14 days after service of the disclosures a party may serve and file an objection to the:

(A) use of a deposition designated by another party; and

(B) admissibility of materials identified under Subsection R151-4-504(2)(a).

(iii) An objection not timely made is waived.

#### **R151-4-505. Other Discovery Methods.**

Parties may obtain discovery by one or more of the following methods:

(1) depositions upon oral examination;

(2) production of documents or things;

(3) permission to enter upon land or other property for inspection and other purposes; and

(4) physical and mental examinations.

#### **R151-4-506. Limits on Use of Discovery.**

The presiding officer shall limit the frequency and extent of discovery~~shall be limited by the presiding officer~~ regardless of whether either party files a motion to limit discovery if:

(1) the discovery sought is unreasonably cumulative, duplicative, or is obtainable from some other source that is:

(a) more convenient;

(b) less burdensome; or

(c) less expensive;

(2) the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or

(3) the discovery is burdensome or expensive, taking into account:

(a) the needs of the case;

(b) the amount in controversy;

(c) the limitations on the parties' resources; and

(d) the importance of the issues at stake in the litigation.

#### **R151-4-507. Protective Orders.**

(1) Upon motion by a party or by the person from whom discovery is sought the presiding officer may make an order that justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

## NOTICES OF PROPOSED RULES

- (a) that the discovery not be had;
  - (b) that the discovery may be had only on specified terms and conditions, including a designation of the time or place;
  - (c) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery;
  - (d) that certain matters not be discovered, or that the scope of the discovery be limited to certain matters;
  - (e) that discovery be conducted with no one present except persons designated by the presiding officer;
  - (f) that a deposition after being sealed be opened only by order of the presiding officer;
  - (g) that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way; or
  - (h) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the presiding officer.
- (2) If the motion for a protective order is denied in whole or in part, the presiding officer may order that a party or person provide or permit discovery.

### **R151-4-508. Timing, Completion, and Sequence of Discovery.**

- (1) Parties are encouraged to initiate appropriate discovery procedures in advance of the prehearing conference so that discovery disputes can be addressed at that conference to the extent possible.
- (2)(a) Discovery, except for prehearing disclosures governed by Section R151-4-504, shall be completed within 120 calendar days after the day:
- (i) the notice of agency action was issued; or
  - (ii) the initial decision as to a request for agency action was issued.
- (b) Factors the presiding officer shall consider in determining whether to shorten this time period include:
- (i) whether a party's interests will be prejudiced if the time period is not shortened;
  - (ii) whether the relative simplicity or nonexistence of factual issues justifies a shortening of discovery time; and
  - (iii) whether the health, safety or welfare of the public will be prejudiced if the time period is not shortened.
- (c) Factors the presiding officer shall consider in determining whether a party has demonstrated good cause to extend this time period include, in addition to those set forth in Section R151-4-109:
- (i) whether the complexity of the case warrants additional discovery time; and
  - (ii) whether that party has made reasonable and prudent use of the discovery time that has already been available to the party since the proceeding commenced.

(d) The presiding officer may not extend discovery in a way that prevents the hearing from taking place within the time frames established in Section R151-4-108.

(3)(a) Unless the presiding officer orders otherwise for the convenience of parties and witnesses, and except as otherwise provided by this rule, discovery methods may be used in any sequence.

(b) The fact that a party is conducting discovery ~~shall~~ may not operate to delay another party's discovery.

### **R151-4-509. Supplemented Disclosures and Amended Responses.**

(1) A party who has made a disclosure or responded to a request for discovery with a response that was complete when made

shall supplement the disclosure or amend the response to include subsequent information if:

- (a) ordered by the presiding officer; or
  - (b) a circumstance described in Subsection (2) or (3) exists.
- (2)(a) A party shall supplement disclosures if:
- (i) the party learns that in some material respect the information disclosed is incomplete or incorrect; and
  - (ii) the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing.
- (b) As to testimony of an expert from whom a report is required under Section R151-4-504:
- (i) the duty extends to information contained in the report; and
  - (ii) additions or other changes to this information shall be disclosed by the time the party's disclosures under Section R151-4-504 are due.
- (3) A party shall amend a prior response to a request for production:
- (a) within a reasonable time after the party learns that the response is in some material respect incomplete or incorrect; and
  - (b) if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing.

### **R151-4-510. Prehearing Conference - Scheduling the Hearing Date.**

(1) Each notice of agency action or initial decision as to a request for agency action:

(a) shall contain the time, date, and location of a prehearing conference, that shall be at least 45 calendar days but not more than 60 calendar days after the date of the notice of agency action or initial decision as to a request for agency action;

(b) shall contain a clear notice that failure to respond within 30 calendar days may result in:

- (i) cancellation of the prehearing conference; and
- (ii) a default order; and
- (c) may contain the date, consistent with Section R151-4-108, of the scheduled hearing.

(2)(a) The prehearing conference may be in person or telephonic.

(b) Each Party, or their counsel, shall participate in the conference.

(c) The conference shall include discussion and scheduling of discovery, prehearing motions, and other necessary matters.

(3) During the prehearing conference, the presiding officer shall issue a verbal order, and shall issue a written order of the same effect within two business days after the conclusion of the conference~~[is concluded]~~, that shall address each of the following:

(a) if necessary, scheduling an additional prehearing conference;

(b) setting a deadline for the filing of prehearing motions and cross motions, including motions for summary judgment, allowing for motions to be submitted and ruled on before the hearing date;

(c) modifying, if appropriate, a deadline for disclosures;

(d) resolving discovery issues;

(e) establishing a schedule for briefing, discovery needs, expert witness reports, witness and exhibit lists, objections, and other necessary or appropriate prehearing matters;

(f) if not already scheduled, scheduling a hearing date in compliance with Section R151-4-108; and

(g) dealing with other necessary matters.

(4) A party joined after the prehearing conference is bound by the order issued as a result of that conference unless the order is modified in writing pursuant to a stipulation or motion.

(5)(a) The presiding officer shall schedule prehearing matters consistent with Section R151-4-108.

(b) The presiding officer may:

(i) adjust time frames as necessary to accommodate Section R151-4-108; and

(ii) schedule appropriate prehearing matters to occur concurrently.

**R151-4-511. Signing of Disclosures, Discovery Requests, Responses, and Objections.**

(1)(a) Each disclosure shall:

(i) ~~be signed by~~ include the signature of:

(A) at least one attorney of record; or

(B) the party if not represented by an attorney; and

(ii) include the mailing address of the signer.

(b) The signature of the attorney or party constitutes a certification that to the best of the signer's knowledge, information, and belief, formed after a reasonable inquiry, the disclosure is complete and correct as of the time it was made.

(2)(a) Each request for discovery or response, or objection to discovery shall:

(i) be signed by:

(A) at least one attorney of record; or

(B) the party if not represented by an attorney; and

(ii) include the mailing address of the signer.

(b) The signature of the attorney or party constitutes a certification that the signer has read the request, response, or objection, and that to the best of the signer's knowledge, information, and belief formed after a reasonable inquiry it is:

(i) consistent with this rule and warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law;

(ii) not interposed for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; and

(iii) not unreasonable or burdensome or expensive, given the needs of the case, the discovery already had in the case, and the importance of the issues at stake in the proceeding.

(3)(a) If a request, response, or objection is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the party making the request, response, or objection.

(b) A party is not obligated to take an action as to a request, response, or objection until it is signed.

**R151-4-512. Filing of Discovery Requests or Disclosures.**

(1) Unless otherwise ordered by the presiding officer:

(a) a party may not file a request for or response to discovery, but shall file only the original certificate of service stating that the request or response has been served on the other parties and the date of service;

(b) except as described in Subsection R151-4-512(1)(c), a party may not file any of the disclosures required by the prehearing order, but shall file only the original certificate of service stating that the disclosures have been served on the other parties and the date of service; and

(c) a party shall file the disclosures required by Section R151-4-504.

(2) A party filing a motion for a protective order or a motion for an order compelling discovery shall attach to the motion a copy of the request or response at issue.

**R151-4-513. Subpoenas.**

(1) Each subpoena:

(a) shall be issued and signed by the presiding officer;

(b) shall state the title of the action;

(c) shall command each person to whom it is directed to attend and give testimony at a hearing or deposition at a time and place specified;

(d) may command the person to whom it is directed to produce designated books, papers, or tangible things, and in the case of a subpoena for a deposition, may permit inspection and copying of the items; and

(e) shall limit its designation of books, papers, or tangible things to matters properly within the scope of discoverable information.

(2) A subpoenaed individual shall receive the fee for attendance and mileage reimbursement required by law.

(3)(a) A subpoena commanding a person to appear at a hearing or a deposition in Utah may be served at any place in Utah.

(b) A person who resides in Utah may be required to appear at a deposition:

(i) in the county where the person resides, is employed, or transacts business in person; or

(ii) at any reasonable location as the presiding officer may order.

(c) A person who does not reside in this state may be required to appear at a deposition:

(i) in the county in Utah where the person is served with a subpoena; or

(ii) at any reasonable location as the presiding officer may order.

(4) A subpoena shall be served in accordance with the requirements of the jurisdiction where service is made.

(5) Upon a motion made promptly to quash or modify a subpoena, but no later than the time specified in the subpoena for compliance, the presiding officer may:

(a) quash or modify the subpoena, if it is shown to be unreasonable and oppressive; or

(b) conditionally deny the motion with the denial conditioned on the payment of the reasonable cost of producing the requested materials by the person on whose behalf the subpoena is issued.

(6)(a) In the case of a subpoena requiring the production of books, papers, or other tangible things at a deposition, the person to whom the subpoena is directed may, within 10 days after service or on or before the time specified in the subpoena for compliance if the time is less than 10 days after service, serve on the attorney designated in the subpoena a written objection to production, inspection, or copying of any of the designated materials.

(b) If an objection is made, the party serving the subpoena is not entitled to production, inspection, or copying of the materials except pursuant to a further order of the presiding officer who issued the subpoena.

**R151-4-514. Production of Documents and Things and Entry Upon Land for Inspection and Other Purposes.**

(1) Upon approval by the presiding officer, a party may serve on another party a request:

(a) to produce and permit the party making the request to:  
 (i) inspect and copy a data compilation from which information can be obtained and translated into a reasonably usable form; or

(ii) inspect and copy, test, or sample a document or tangible thing that:

(A) constitutes or contains matters within the scope of Subsection R151-4-502(1); and

(B) are in the possession, custody or control of the party upon whom the request is served; or

(b) to permit, within the scope of Subsection R151-4-502(1), entry on designated land, property, object, or operation in the possession or control of the party upon whom the request is served for inspection, measuring, surveying, photographing, testing, or sampling.

(2)(a) Before permitting a party to serve a request for production of documents, the presiding officer shall first find that the requesting party has demonstrated the records have not already been provided.

(b) After approval by the presiding officer, the request may be served on a party.

(c) The request shall:

(i) set forth the items to be inspected either by individual item or by category;

(ii) describe each item and category with particularity; and

(iii) specify a reasonable time, place, and manner of making the inspection and performing the related acts.

(d)(i) The party upon whom the request is served shall serve a written response within 20 days after service of the request unless the presiding officer allows a shorter or longer time in a written order.

(ii) The response shall state, as to each specific item or category:

(A) that the party will permit inspection and related activities ~~will be permitted~~ as requested; or

(B) an objection.

(iii) The party submitting the request may move for an order under Section R151-4-516 as to any:

(A) objection;

(B) failure to respond to any part of the request; or

(C) failure to permit inspection as requested.

(e) A party who produces documents for inspection shall:

(i) produce them as they are kept in the usual course of business; or

(ii) organize and label them to correspond with the categories in the request.

#### **R151-4-515. Physical and Mental Examination of Persons.**

(1)(a) When the mental or physical condition, including the blood group, of a party or of a person in the custody or under the legal control of a party is in controversy, the presiding officer may order the party or person to:

(i) submit to a physical or mental examination by a physician; or

(ii) produce for examination the person in the party's custody or legal control.

(b) The order:

(i) may be made only on motion for good cause shown and upon notice to the person to be examined and to each party; and

(ii) shall specify:

(A) the time, place, manner, conditions, and scope of the examination; and

(B) the person who shall conduct the examination ~~by whom it is to be made~~.

(2)(a)(i) If requested by the party against whom an order is made under this rule or the person examined, the party causing the examination to be made shall deliver to the requester a copy of a detailed written report of the examining physician including findings, diagnoses, conclusions, test results, and reports of any earlier examination of the same condition.

(ii)(A) After delivery, the party causing the examination may request to receive from the party against whom the order is made a report of an examination of the same condition unless, as to an examination of a person not a party, the party shows that the party cannot obtain it.

(B) The presiding officer on motion may order a party to deliver a report, and if a physician fails or refuses to make a report, the presiding officer may exclude the physician's testimony at the hearing.

(b) By requesting and obtaining an examination report or by taking the deposition of the examiner, the party examined waives any privilege regarding the testimony of any other person who has examined or may thereafter examine the party for the same mental or physical condition.

(c) Subsection R151-4-515(2):

(i) applies to any examination made by agreement of the parties unless the agreement expressly provides otherwise; and

(ii) does not preclude discovery of a report of an examining physician or the taking of a deposition of the physician under any other rule.

#### **R151-4-516. Motion to Compel Discovery - Sanctions.**

(1)(a) The discovering party may move for an order compelling discovery if:

(i) a party fails to make disclosures required by a prehearing order;

(ii) a party fails to make the disclosures required by Section R151-4-504;

(iii) a deponent fails to answer a question;

(iv) a corporation or other entity named as a deponent fails to designate an individual to testify pursuant to Utah Rules of Civil Procedure, Rule 30; or

(v) a party, in response to a request for inspection under Section R151-4-514, fails to respond that an inspection will be permitted as requested or fails to permit an inspection as requested.

(b) When taking a deposition, the proponent of a question may complete or adjourn the examination before applying for an order.

(c) If the presiding officer denies the motion in whole or in part, the presiding officer may make a protective order that otherwise would be authorized by Section R151-4-507.

(d) An evasive or incomplete answer is treated as a failure to answer.

(2)(a) If a party or other person fails to comply with an order compelling discovery:

(i) the department may seek civil enforcement in the district court under Section 63G-4-501; or

(ii) the presiding officer may, for good cause, issue an order:

(A) that the related matters and facts shall be taken to be established;

(B) refusing to allow the disobedient party to support or oppose designated claims or defenses; or



(C) prohibiting the disobedient party from introducing designated matters in evidence;

(D) striking out pleadings or motions, or portions of pleadings or motions;

(E) dismissing the proceeding or a portion of the proceeding; or

(F) rendering a judgment by default against the disobedient party.

#### **R151-4-601. Applicability - Scope.**

(1) ~~[This part,]~~ Sections R151-4-601 through ~~[Section R151-4-611, apply]~~ only to formal adjudicative proceedings.

(2)(a) Only as provided in this part and with a written order of the presiding officer, a party may take the testimony by deposition upon oral examination of certain persons, including parties, who know facts relevant to the claims or defenses of a party in the proceeding.

(b) The attendance of witnesses may be compelled by subpoena.

(c) A party may not depose an expert witness.

#### **R151-4-602. General Provisions - Persons who may be Deposed.**

(1) Before a party may request leave to take a person's deposition, the party shall first make efforts to obtain discovery from that person by an interview. For purposes of this section, "interview" means an unsworn, oral examination of a person with knowledge of facts relevant to the claims or defenses of a party in the proceeding, whether in person or by remote means.

(2) A party may not be granted leave to take a deposition unless the party, upon motion, demonstrates to the satisfaction of the presiding officer that the person has knowledge of facts relevant to the claims or defenses of a party in the proceeding and:

(a) has refused a reasonable request by the moving party for an interview;

(b) has failed to attend a scheduled interview;

(c) has failed to provide reasonable availability for an interview;

(d) has refused to answer reasonable questions propounded to the person by that party in an interview; or

(e) will be unavailable to testify at the hearing.

(3) In deciding whether to grant the motion, the presiding officer shall consider the probative value the testimony is likely to have in the proceeding and the complexity of the proceeding.

(4) The moving party has the burden of proof in a motion for leave to take a deposition.

(5) Any participant in an interview conducted in accordance with this section may create an audio recording of the interview as long as the person recording the interview gives verbal notice to the other participants that the interview is being recorded. Any participant that creates an audio recording of the interview shall provide a copy of the recording to each party to the proceeding within 10 days of the interview.

(6) The parties to a proceeding may stipulate to take a deposition rather than conduct an interview, even if the requirements of this section have not been met.

#### **R151-4-603. Notice of Deposition - Requirements.**

(1) A party permitted to take a deposition shall give notice pursuant to the notice requirements of Utah Rules of Civil Procedure, Rule 30.

(2)(a) The parties may stipulate in writing or, upon motion, the presiding officer may order in writing that the testimony at a deposition be recorded by means other than stenographic means.

(b) The stipulation or order:

(i) shall designate the person before whom the deposition shall be taken;

(ii) shall designate the manner of recording, preserving and filing the deposition; and

(iii) may include other provisions to assure the recorded testimony will be accurate and trustworthy.

(c) A party may arrange to have a transcript made at the party's own expense.

(d) A deposition recorded by means other than stenographic means shall set forth in writing:

(i) any objections;

(ii) any changes made by the witness;

(iii) the signature of the witness identifying the deposition as the witness's own or the statement of the court reporter required if the witness does not sign; and

(iv) any certification required by Utah Rules of Civil Procedure, Rule 30.

(3) The notice to a party deponent may be accompanied by a request in compliance with Section R151-4-514 for the production of documents and tangible things at the deposition.

(4) Utah Rules of Civil Procedure, Rule 30(b)(6), shall apply if a deponent is:

(a) a public or private corporation;

(b) a partnership;

(c) an association; or

(d) a government agency.

(5) The parties may stipulate in writing or, upon motion, the presiding officer may order a deposition be taken by telephone.

#### **R151-4-604. Examination and Cross Examination.**

Examination and cross examination of witnesses may proceed as permitted at a hearing under the Utah Administrative Procedures Act and Utah Rules of Civil Procedure, Rule 30.

#### **R151-4-605. Motion to Terminate or Limit Examination.**

The presiding officer may order the court reporter conducting the examination to end the deposition or may limit the scope and manner of taking the deposition pursuant to Utah Rules of Civil Procedure, Rule 30.

#### **R151-4-606. Submission to Witness - Changes - Signing.**

A deposition shall be submitted to the witness, changed, and signed pursuant to Utah Rules of Civil Procedure, Rule 30.

#### **R151-4-607. Certification - Delivery - Exhibits.**

(1) The transcript or recording of a deposition shall be certified and delivered pursuant to Utah Rules of Civil Procedure, Rule 30.

(2) Exhibits shall be marked for identification, inspected, copied, and delivered pursuant to Utah Rules of Civil Procedure, Rule 30.

#### **R151-4-608. Persons Before Whom Depositions May Be Taken.**

~~[D]~~ A party shall take depositions ~~[shall be taken]~~ before an individual certified court reporter as defined by Title 58, Chapter 74, State Certification of Court Reporters Act.

**R151-4-609. Use of Depositions.**

(1) Pursuant to the other provisions of Section R151-4-609, a part of a deposition, if admissible under the Utah Rules of Evidence applied as though the witness were present and testifying, may be used against a party who:

- (a) was present or represented at the taking of the deposition; or
- (b) had reasonable notice of the deposition.
- (2) A party may use a deposition:
  - (a) to contradict or impeach the testimony of the deponent as a witness; or
  - (b) for another purpose permitted by the Utah Rules of Evidence.
- (3) An adverse party may use a deposition for any purpose.
- (4) A party may use the deposition of a witness, whether or not a party, for any purpose if the presiding officer finds that:
  - (a) the witness is dead;
  - (b) the witness is more than 100 miles from the hearing, unless it appears the absence of the witness was procured by the party offering the deposition;
  - (c) the witness cannot attend or testify because of age, illness, infirmity, or imprisonment; or
  - (d) the party offering the deposition has been unable to procure the attendance of the witness by subpoena.
- (5) If part of a deposition is offered in evidence by a party, an adverse party may require introduction of any other part that ought, in fairness, to be considered with the part introduced.
- (6) A deposition lawfully taken and filed in a court or another agency within Utah may be used as if originally taken in the pending proceeding.
- (7) A deposition previously taken may otherwise be used as permitted by the Utah Rules of Evidence.

**R151-4-610. Objections to Admissibility.**

A party may object at a hearing to receiving in evidence any part of a deposition for a reason that would require the exclusion of the evidence if the witness were present and testifying.

**R151-4-611. Effect of Errors and Irregularities in Depositions.**

- (1) An error or irregularity in the notice for taking a deposition is waived unless a party promptly serves a written objection on the party giving the notice.
- (2) An objection to taking a deposition because of disqualification of the court reporter before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.
- (3) An objection to the competency of a witness or to the competency, relevancy, or materiality of testimony is not waived by failure to make it before or during the taking of the deposition, unless the basis of the objection is one that could have been obviated or removed if presented at that time.
- (4) An error or irregularity occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties, and an error that might be obviated, removed, or cured if promptly presented, is waived unless an objection is made at the taking of the deposition.
- (5) An error or irregularity in the manner that the testimony is transcribed or the deposition is prepared, signed, certified, sealed, endorsed, transmitted, filed, or otherwise dealt with is waived unless

a motion to suppress is made with reasonable promptness after the defect is, or with due diligence should have been, discovered.

**R151-4-701. Hearings Required or Permitted.**

A hearing shall be held in an adjudicative proceeding if a hearing is:

- (1) required by statute or rule and not waived by the parties; or
- (2) permitted by statute or rule and timely requested.

**R151-4-702. Time to Request Permissive Hearing.**

A request for a hearing permitted by statute or rule shall be received no later than:

- (1) the time period for filing a response to a notice of agency action if a response is required or permitted;
- (2) twenty days following the issuance of a notice of agency action if a response is not required or permitted; or
- (3) the filing of the request for agency action.

**R151-4-703. Hearings Open to Public - Exceptions.**

- (1) A hearing in an adjudicative proceeding is open to the public unless closed by:
  - (a) the presiding officer conducting the hearing, pursuant to Title 63G, Chapter 4, Administrative Procedures Act; or
  - (b) a presiding officer who is a public body, pursuant to Title 52, Chapter 4, Open and Public Meetings Act.
- (2)(a) The deliberative process of an adjudicative proceeding is a quasi-judicial function exempt from the Open and Public Meetings Act.
- (b) Deliberations are closed to the public.

**R151-4-704. Bifurcation of Hearing.**

The presiding officer may, for good cause, order a hearing bifurcated into a findings phase and a sanctions phase.

**R151-4-705. Order of Presentation in Hearings.**

The order of presentation of evidence in hearings in formal adjudicative proceedings shall be as follows:

- (1) opening statement of the party with the burden of proof;
- (2) opening statement of the opposing party, unless the party reserves the opening statement until the presentation of its case-in-chief;
- (3) case-in-chief of the party with the burden of proof and cross examination of witnesses by the opposing party;
- (4) case-in-chief of the opposing party and cross examination of witnesses by the party with the burden of proof;
- (5) if the presiding officer finds it to be necessary, rebuttal evidence by the party that has the burden of proof;
- (6) if the presiding officer finds it to be necessary, rebuttal evidence by the opposing party;
- (7) closing argument by the party with the burden of proof;
- (8) closing argument by the opposing party; and
- (9) final argument by the party with the burden of proof.

**R151-4-706. Testimony Under Oath.**

Testimony presented at a hearing shall be given under oath administered by the presiding officer and under penalty of perjury.

**R151-4-707. Electronic Testimony.**

- (1) As used in this section, electronic testimony means testimony by contemporaneous transmission from a different location

including by telephone, or by other audio or video conferencing technology.

(2) For good cause and with appropriate safeguards, the presiding officer may permit electronic testimony in hearings in administrative proceedings.

(3) With appropriate safeguards, electronic testimony is permissible in an informal proceeding on the request of a party.

#### **R151-4-708. Standard of Proof.**

Unless otherwise provided by statute or a rule applicable to a specific proceeding, the standard of proof in a proceeding under this rule, whether initiated by a notice of agency action or request for agency action, is a preponderance of the evidence.

#### **R151-4-709. Burden of Proof.**

Unless otherwise provided by statute:

(1) the department has the burden of proof in a proceeding initiated by a notice of agency action; and

(2) the party who seeks action from the department has the burden of proof in a proceeding initiated by a request for agency action.

#### **R151-4-710. Default Orders.**

(1) The presiding officer may enter a default order under Section 63G-4-209, with or without a motion from a party.

(2) If a basis exists for a default order, the order may enter without notice to the defaulting party or a hearing.

(3) A default order is not required to be accompanied by a separate order.

#### **R151-4-711. Record of Hearing.**

(1) The presiding officer shall make a record of prehearing conferences and hearings.

(2)(a) The presiding officer shall make the record of a hearing in a formal proceeding by:

(i) a certified court reporter as defined by Title 58, Chapter 74, State Certification of Court Reporters Act; or

(ii) a digital audio or video recording in a commonly used file format.

(b) The presiding officer shall make the record of a hearing in an informal proceeding by:

(i) a method required for a formal proceeding; or

(ii) the minutes of the proceeding or an order prepared or adopted by the presiding officer.

(3) ~~The department shall record a [A-]hearing in an adjudicative proceeding[shall be recorded] at [the] its expense[of the department].~~

(4)(a) If a party is required by Section R151-4-902 to obtain a transcript of a hearing for agency review, the party shall ensure that the record is transcribed:

(i) in a formal adjudicative proceeding, by a certified court reporter; or

(ii) in an informal adjudicative proceeding, by:

(A) a certified court reporter; or

(B) a person who is not a party in interest.

(b) If a transcript is prepared by someone other than a certified court reporter, a party shall file an affidavit of the transcriber stating under penalty of perjury that the transcript is a correct and accurate transcription of the hearing record.

(c) Pages and lines in a transcript shall be numbered for referencing purposes.

(d) The party requesting the transcript shall bear the cost of the transcription.

(5) ~~[F]A party shall file the original transcript of a record of a hearing[shall be filed]~~ with the presiding officer.

#### **R151-4-712. Fees.**

(1)(a) Witnesses appearing on the demand or at the request of a party may receive payment from that party of:

(i) \$18.50 for each day in attendance; and

(ii) if traveling more than 50 miles to attend and return from the hearing, 25 cents a mile for each mile actually and necessarily traveled.

(b) A witness subpoenaed by a party other than the department may:

(i) demand one day's witness fee and mileage in advance; and

(ii) be excused from appearance unless the fee is provided.

(2) Interpreters and translators may receive compensation for their services.

(3) An officer or employee of the United States, the state of Utah, or a county, incorporated city, or town within the state of Utah, may not receive a witness fee unless the officer or employee is required to testify at a time other than during normal working hours.

(4) A witness may not receive fees in more than one adjudicative proceeding on the same day.

#### **R151-4-801. Requirements and Timeliness.**

(1) For default orders and orders issued after a default order, the requirements of Subsections 63G-4-203(1)(i)(iii), 63G-4-203(1)(i)(iv), and 63G-4-208(1)(e) through (g) are satisfied if the order includes a notice of the right to seek to set aside the order as provided in Subsection 63G-4-209(3).

(2) Except as provided in Sections 63G-4-502 and R151-4-111, the presiding officer shall issue an order within 45 calendar days after the day the hearing concludes.

(3) If the presiding officer permits the filing of post-hearing documents, that filing shall be scheduled in a way that allows the presiding officer to issue an order within 45 calendar days after the day the hearing concludes.

(4) The failure of the presiding officer to comply with the requirements of this section:

(a) is not a basis for dismissal of the matter; and

(b) ~~[may not be considered]~~ is not an automatic denial or grant of a motion.

#### **R151-4-802. Effective Date.**

The effective date of an order is 30 calendar days after its issuance unless otherwise provided in the order.

#### **R151-4-803. Clerical Mistakes.**

(1) The department may correct clerical mistakes in orders or other parts of the record and errors arising from oversight or omission on:

(a) its own initiative; or

(b) the motion of a party.

(2) ~~[M]The department may correct mistakes described in this section[may be corrected]:~~

(a) at any time before the docketing of a petition for judicial review; or

(b) as governed by Utah Rules of Appellate Procedure, Rule 11(h).

**R151-4-901. Availability of Agency Review and Reconsideration.**

(1)(a) Except as otherwise provided in Subsection 63G-4-209(3)(c), an aggrieved party may obtain agency review of a final order by filing a request with the executive director within 30 calendar days after the issuance of the order.

(b) This 30-day deadline is jurisdictional, the three-day mailing rule in Subsection 151-4-107(3) does not apply and does not extend the jurisdictional deadline.

(c) Pursuant to Subsection 63G-4-102(9), the executive director may extend the deadline only for good cause shown.

(d) Good cause to justify an extension means special circumstances beyond the control of the person requesting agency review that prevents a timely filing of the request.

(e) A decision on a prehearing motion is not subject to interlocutory appeal or agency review until the division enters a final order.

(2)(a) Agency review is not available for an order or decision entered by:

- (i) the Utah Motor Vehicle Franchise Advisory Board; or
- (ii) the Utah Powersport Vehicle Franchise Advisory Board

(b) Agency review is not available for an order or decision entered by the Division of Professional Licensing for:

- (i) Prelitigation proceedings under Title 78B, Chapter 3, the Utah Health Care Malpractice Act;
- (ii) a request for modification of a disciplinary order;
- (iii) a request under Title 58, Chapter 4a, for entry into the Utah Professionals Health Program; or
- (iv) a determination made on an application for a division determination regarding criminal record in accordance with Section 58-1-310.

(c) Agency review is not available for an order or decision entered by the Division of Corporations and Commercial Code for:

- (i) refusal to file a document under the Utah Revised Business Corporations Act pursuant to Section 16-10a-126;
- (ii) revocation of a foreign corporation's authority to transact business pursuant to Section 16-10a-1532;
- (iii) refusal to file a document under the Utah Revised Limited Liability Company Act pursuant to Section 48-3a-209; or
- (iv) denial of reinstatement under the Uniform Limited Cooperative Association Act pursuant to Section 16-16-1213.

(d)(i) A party may request agency reconsideration pursuant to Section 63G-4-302 for an order or decision exempt from agency review under Subsections R151-4-901(2)(a), R151-4-901(2)(b)(ii), and R151-4-901(2)(c).

(ii) Pursuant to Subsections ~~[58-1-404(4)(d)]~~ 58-4a-105(5) and 78B-3-416(1)(c), agency reconsideration is not available for an order or decision exempt from agency review under Subsections R151-4-901(2)(b)(i) and R151-4-901(2)(b)(iii).

**R151-4-902. Request for Agency Review - Transcript of Hearing - Service.**

(1) A request for agency review shall:

- (a) comply with Subsection 63G-4-301(1)(b) and this section; and
- (b) include a copy of the order that is the subject of the request.

(2) A party requesting agency review shall set forth any factual or legal basis in support of that request, including adequate supporting arguments and citation to:

- (a) appropriate legal authority; and
- (b) the relevant portions of the record.

(3)(a) If a party challenges a finding of fact, the party shall demonstrate, based on the entire record, that the finding is not supported by substantial evidence.

(b) A party challenging a finding of fact bears the burden to show that the finding is not supported by substantial evidence.

(c) A party challenging a legal conclusion shall support the argument with citation to:

- (i) relevant authority; and
- (ii) the portions of the record relevant to the issue.

(4)(a) If the grounds for agency review include a challenge to a determination of fact or conclusion of law as unsupported by or contrary to the evidence, the party seeking agency review shall order and cause a transcript of the record relevant to the finding or conclusion to be prepared.

(b) When a transcript is required, the party seeking review shall:

- (i) certify that the transcript has been ordered;
- (ii) notify the department when the transcript will be available; and
- (iii) file the transcript with the executive director in accordance with the time frame stated in the certification regarding transcript.

(c) The party seeking agency review bears the cost of the transcript.

(5) ~~[G]If a party's grounds for agency review[that] include any legal argument[shall be supported by], the party shall support the argument with~~ specific citations to the transcript of the proceeding, indicating when the argument was raised and preserved in the proceeding. Examples of legal argument include:

- (a) an objection to a ruling of the presiding officer;
- (b) an argument regarding one or more procedures attendant to the proceeding; or
- (c) an argument as to the legal validity, including the constitutionality, of a statute or rule.

(6)(a) A party seeking agency review shall, in the manner described in Sections R151-4-401 and R151-4-402, file and serve on the parties copies of correspondence, pleadings, motions, and other submissions.

(b) If an attorney enters an appearance on behalf of a party, service shall be made on the attorney instead of the party.

**R151-4-903. Stay Pending Agency Review.**

(1)(a) With a timely filing of a request for agency review of an order, the party seeking review may file a motion for a stay of the order pending the completion of agency review.

(b) If a motion to stay is not timely filed and subsequently granted, the order subject to review shall remain in effect according to its terms.

(2)(a) The division that issued the order subject to review may oppose a motion for a stay in writing within ten days from the date the stay is requested.

(b) Failure to oppose a timely request for a stay shall result in an order granting the stay unless the executive director determines that a stay would not be in the best interest of the public.

(c) If a division opposes a motion for a stay, the executive director may permit a final response by the party requesting the stay.

(d) The executive director may enter an interim order granting a stay pending a decision on the motion for a stay.

(3)(a) In determining whether to grant a request for a stay, the executive director shall review the division's findings of fact, conclusions of law and order to determine whether granting a stay

would, or might reasonably be expected to, pose a significant threat to the public health, safety, and welfare.

(b) The executive director may issue:

- (i) an order granting the motion for a stay;
- (ii) a conditional stay imposing terms, conditions or restrictions on a party pending agency review;
- (iii) a partial stay; or
- (iv) an order denying the motion for a stay.

#### **R151-4-904. Agency Review - Memoranda.**

(1)(a) The department may order or permit the parties to file memoranda to assist in conducting agency review.

(b) Memoranda shall comply with:

- (i) this rule; and
- (ii) a scheduling order entered by the department.

(2)(a) If a transcript is not necessary to conduct agency review, a memorandum supporting a request for agency review shall be concurrently filed with the request.

(b) If a transcript is necessary to conduct agency review, a party requesting agency review shall file a supporting memorandum ~~shall be filed~~ no later than 15 days after the filing of the transcript with the department.

(3)(a) A response to a request for agency review and a memorandum supporting that response shall be filed no later than 30 days after the service of the memoranda supporting the request.

(b) A final reply memorandum shall be filed no later than 10 days after the service of a response to the request for agency review.

(4) If agency review involves more than two parties the department shall conduct a telephonic scheduling conference to address briefing deadlines.

#### **R151-4-905. Agency Review - Standards of Review.**

In both formal and informal adjudicative proceedings, the standards for agency review correspond to the standards for judicial review of formal adjudicative proceedings under Subsection 63G-4-403(4).

#### **R151-4-906. Agency Review - Type of Relief - Order on Review.**

(1) The type of relief available on agency review shall be the same as the type of relief available on judicial review under Subsection 63G-4-404(1)(b).

(2) The order on review constitutes final agency action for purposes of Subsection 63G-4-401(1).

#### **R151-4-907. Stay Pending Judicial Review.**

(1) A party seeking judicial review of an order may file with the executive director a motion for a stay of the order pending judicial review. The party filing the motion for a stay shall ~~be filed~~ file the motion with the executive director on the same date that a timely petition for judicial review is filed with the court.

(2) Unless otherwise provided by statute, a motion for a stay of an order pending judicial review shall include:

- (a) a statement of the reasons for the relief requested;
- (b) a statement of the facts relied upon;
- (c) affidavits or other sworn statements if the facts are subject to dispute;
- (d) relevant portions of the record of the adjudicative proceeding and agency review;
- (e) a memorandum of law identifying the issues to be presented on appeal and supporting the aggrieved party's position that those issues raise a substantial question of law or fact reasonably

likely to result in reversal, remand for a new hearing, or relief from the order entered;

(f) clear and convincing evidence that if the executive director does not grant the requested stay ~~is not granted~~, the aggrieved party will suffer irreparable injury;

(g) clear and convincing evidence that if the executive director grants the requested stay ~~is granted~~, it will not substantially harm other parties to the proceeding; and

(h) clear and convincing evidence that if the executive director grants the requested stay ~~is granted~~, the aggrieved party will not pose a significant danger to public health, safety, and welfare.

(3)(a) The division that issued the order subject to review may oppose a motion for a stay in writing within ten days from the date that the motion is filed.

(b) Failure to oppose a timely motion under this section shall result in an order granting the stay unless the executive director determines that a stay would not be in the public interest.

(c) If a division opposes a motion for a stay, the executive director may permit a final response by the party filing the motion.

(4) The executive director may grant a motion for a stay of an order pending judicial review if the party filing the motion meets the criteria in Subsections R151-4-907(1) and (2) ~~are met~~.

**KEY: administrative procedures, adjudicative proceedings, government hearings**

**Date of Last Change: 2024[September 7, 2022]**

**Notice of Continuation: September 22, 2020**

**Authorizing, and Implemented or Interpreted Law: 13-1-6; 63G-4-102(6)**

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

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R277-210</b>	<b>Filing ID:</b> <b>56191</b>
--------------------------------	-----------------	-----------------------------------

#### **Agency Information**

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state and zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
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:**

R277-210. Utah Professional Practices Advisory Commission (UPPAC), Definitions

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

This rule is being amended to update the definitions for educator misconduct.

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

These amendments specifically add clarification to the definition of "Boundary Violation" by specifying the distinction between repetitive boundary violations from a pattern of boundary violations.

**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 changes give clarity to Utah Professional Practices Advisory Commission (UPPAC) but do not add quantifiable costs for staff or UPPAC member time.

These clarifying changes help UPPAC determine findings on individual cases within the existing framework and do not require additional staff or resources. There are no fiscal impacts to Utah State Board of Education (USBE) budgets or other state entities.

**B) Local governments:**

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. Local Education Agencies (LEAs) will not see any additional costs with the additional clarity for UPPAC.

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

This rule change is not expected to have fiscal impacts on small businesses' revenues or expenditures. This only affects UPPAC and educators.

**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. There is no fiscal impact educators to add clarity for UPPAC.

This rule change only affects UPPAC and educators.

**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 to UPPAC to add clarity to its processes and no quantifiable costs for any other entities or persons.

These clarifying changes help UPPAC determine findings on individual cases within the existing framework and do not require additional staff or resources.

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

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

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The 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	Section 53E-6-506
----------------------	-------------------	-------------------

**Public Notice Information**

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	11/15/2023
---	--	--------------	------------

**R277. Education, Administration.****R277-210. Utah Professional Practices Advisory Commission (UPPAC), Definitions.****R277-210-1. 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) Section 53E-6-506, which directs the Board to adopt rules regarding UPPAC duties and procedures; and
- (c) 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 establish definitions for terms in UPPAC activities.

(3) The definitions contained in this rule apply to Rules R277-210 through R277-217.

(~~a~~)<sup>4</sup> Any calculation of time called for by ~~these rules~~ Rules R277-210 through R277-217 shall be governed by Utah R. Civ. P. 6.

**R277-210-2. Definitions.**

(1)(a) "Action" means a disciplinary action taken by the Board adversely affecting an educator's license.

(b) "Action" does not include a letter of warning or letter of education.

(c) "Action" includes:

- (i) a reprimand;
- (ii) a suspension; and
- (iii) a revocation.

(2) "Administrative hearing" or "hearing" has the same meaning as that term is defined in Section 53E-6-601~~[-44]~~.

(3) "Alcohol related offense" means a violation of:

(a) Title 41, Chapter 6a. Part 5, Driving Under the Influence and Reckless Driving, except for offenses not involving alcohol;

(b) Section 76-9-701, Intoxication;

(c) Section 32B-4-403, Unlawful sale, offer for sale, or furnishing to minor; and

(d) any offense under the laws of another state that is substantially equivalent to the offenses described in Subsections (3)(a) through (c).

(4) "Answer" means a written response to a complaint filed by the Executive Secretary alleging educator misconduct.

(5) "Applicant" means a person seeking:

(a) a new license; or

(b) clearance of a criminal background review from Executive Secretary at any stage of the licensing process.

(6)(a) "Boundary violation" means crossing verbal, physical, emotional, and social lines that an educator must maintain ~~in order~~ to ensure structure, security, and predictability in an educational environment.

(b) "Boundary violation" may include the following, depending on the circumstances:

(i) isolated, one-on-one interactions with students out of the line of sight of others;

(ii) meeting individually with students in rooms with covered or blocked windows;

(iii) telling risqué jokes or using profanity in the presence of a student;

(iv) employing favoritism to a student;

(v) inappropriate gift giving to individual students;

(vi) uninvited or inappropriate touching;

(vii) photographing individual students for a non-educational purpose or use;

(viii) engaging in inappropriate or unprofessional contact outside of educational program activities;

(ix) exchanging personal email or phone numbers with a student for a non-educational purpose or use;

(x) interacting privately with a student through social media, computer, or handheld devices;

(xi) discussing with a student inappropriate details about:

(A) an educator's personal life or personal issues; or

(B) a student's personal life or personal issues;



## NOTICES OF PROPOSED RULES

(xii) discussing issues restricted under Subsection 53E-9-203(1) without authorization.

(c) "Boundary violation" does not include:

- (i) offering praise, encouragement, or acknowledgment;
- (ii) offering rewards available to all who achieve;
- (iii) asking permission to touch for necessary purposes;
- (iv) giving pats on the back or a shoulder;
- (v) giving side hugs;
- (vi) giving handshakes or high fives;
- (vii) offering warmth and kindness;
- (viii) utilizing public social media alerts to groups of

students and parents; or

(ix) contact permitted by an IEP or 504 plan.

(d) UPPAC and the Board may find "boundary violations" to be repetitive when the misconduct occurs more than once.

(e)(i) UPPAC and the Board may find a pattern of "boundary violations" when there are multiple incidents of related misconduct that occur consistently over a prolonged timeframe; and

(ii) UPPAC and the Board find the educator's misconduct is aggravated by the circumstances, including:

(A) the misconduct involves more than one student;

(B) the misconduct occurs in more than one physical setting; or

(C) the misconduct includes multiple types of boundary violations.

(iii) UPPAC and the Board may find a pattern of "boundary violations" most readily when the educator's misconduct continues after documented warnings from administrators in the educator's LEA.

(iv) Notwithstanding the existence of the factors identified in this Subsection (e), UPPAC and the Board may find boundary violations are "repetitive" rather than a "pattern" when there are mitigating circumstances consistent with Section R277-215-3.

(7) "Complaint" means a written allegation or charge against an educator filed by the Executive Secretary against the educator.

(8) "Complainant" means the Executive Secretary.

(9) "Comprehensive Administration of Credentials for Teachers in Utah Schools (CACTUS)" means the electronic file developed by the Superintendent and maintained on all licensed Utah educators.

(10) "Conflict of interest" means a business, family, monetary or relationship concern that may cause a reasonable educator to be unduly influenced or that creates the appearance of undue influence.

(11) "Consent to discipline" means an agreement between a respondent and the Board:

(a) under which disciplinary action is taken against the educator in lieu of a hearing;

(b) that may be negotiated between the parties and becomes binding:

(i) when approved by the Board; and

(ii) at any time after an investigative letter has been sent;

(c) is a public document under GRAMA unless it contains specific information that requires redaction or separate classification of the agreement.

(12)(a) "Conviction" means the final disposition of a judicial action for a criminal offense, except in cases of a dismissal on the merits.

(b) "Conviction" includes:

(i) a finding of guilty by a judge or jury;

(ii) a guilty or no contest plea;

(iii) a plea in abeyance; and

(iv) for purposes of Rule R277-214, a conviction that has been expunged.

(13) "Criminal background review" means the process by which the Executive Secretary, UPPAC, and the Board review information pertinent to:

(a) a charge revealed by a criminal background check;

(b) a charge revealed by a hit as a result of ongoing monitoring; or

(c) an educator or applicant's self-disclosure.

(14) "Drug" means controlled substance as defined in Section 58-37-2.

(15) "Drug related offense" means any criminal offense under:

(a) Title 58, Chapter 37, Utah Controlled Substances Act;

(b) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(c) Title 58, Chapter 37b, Imitation Controlled Substances Act;

(d) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;

(e) Title 58, Chapter 37d, Clandestine Drug Lab Act; and

(f) Title 58, Chapter 37e, Drug Dealer's Liability Act.

(16)(a) "Educator" means a person who:

(i) currently holds a Utah educator license; or

(ii) held a license at the time of an alleged offense.

(b) "Educator" does not include a paraprofessional, a volunteer, or an unlicensed teacher in a classroom.

(17) "Educator misconduct" means:

(a) unprofessional conduct;

(b) conduct that renders an educator unfit for duty; or

(c) conduct that is a violation of standards of ethical conduct, performance, or professional competence as provided in Rule R277-217.

(18) "Executive Secretary" means

(a) an employee of the Board appointed by the Superintendent to serve as a non-voting member of UPPAC, consistent with Section 53E-6-502; or

(b) the Executive Secretary's designee.

(19) "Expedited hearing" means an informal hearing aimed at determining if allegations of educator misconduct can be summarily resolved or if an investigation by UPPAC is warranted.

(20) "Expedited hearing panel" means a panel of the following:

(a) the Executive Secretary or the Executive Secretary's designee, who acts as a non-voting hearing officer; and

(b)(i) three voting members of UPPAC; or

(ii) two voting members of UPPAC and a licensed educator with appropriate skills and training to assist on the panel.

(21) "Final action" means an action by the Board that concludes an investigation of an allegation of misconduct against a licensed educator.

(22) "GRAMA" means Title 63G, Chapter 2, Government Records Access and Management Act.

(23) "Hearing officer" means a licensed attorney who:

(a) is experienced in matters relating to administrative procedures;

(b) is appointed by the Executive Secretary to manage the proceedings of a hearing;

(c) is not an acting member of UPPAC;

(d) has authority, subject to the limitations of ~~these rules~~ Board rule, to regulate the course of the hearing and dispose of procedural requests;



(e) drafts a hearing report reflecting the findings and recommendations of the hearing panel; and  
 (f) does not have a vote as to the recommended disposition of a case.

(24) "Hearing panel" means a panel of three or more individuals designated to:

(a) hear evidence presented at a hearing;  
 (b) make a recommendation to UPPAC as to disposition consistent with the rebuttable presumptions in Rule R277-215; and  
 (c) collaborate with the hearing officer in preparing a hearing report.

(25) "Hearing report" means a report that:

(a) is prepared by the hearing officer consistent with the recommendations of the hearing panel at the conclusion of a hearing; and

(b) includes:

(i) a recommended disposition;  
 (ii) detailed findings of fact and conclusions of law, based upon the evidence presented in the hearing, relevant precedent; and  
 (iii) applicable law and rule.

(26) "Illegal drug" means a substance included in:

(a) Schedules I, II, III, IV, or V established in Section 58-37-4;

(b) Schedules I, II, III, IV, or V of the federal Controlled Substances Act, Title II, Pub. L. No. 91-513; or

(c) any controlled substance analog.

(27) "Informant" means a person who submits information to UPPAC concerning the alleged misconduct of an educator.

(28)(a) "Investigative letter" means a letter sent by the Executive Secretary to an educator notifying the educator:

(i) that an allegation of misconduct has been received against the educator;

(ii) that UPPAC or the Board has directed that an investigation of the educator's alleged actions take place; and

(iii) if applicable, that the Executive Secretary will place a flag on the educator's CACTUS file.

(b) An "investigative letter" is not evidence of unprofessional conduct.

(29) "Investigative report" means a written report of an investigation addressing allegations of educator misconduct, prepared by an investigator that:

(a) includes a brief summary of the allegations, the investigator's narrative, a summary of the evidence, and a recommendation for UPPAC;

(b) may include a rationale for the recommendation, and mitigating and aggravating circumstances;

(c) is maintained in the UPPAC case file; and

(d) is classified as protected under Subsection 63G-2-305(34).

(30) "Investigator" means an employee of the Board, or independent investigator selected in accordance with Subsection 53E-6-506(3), who:

(a) is assigned to conduct an independent and objective investigation into allegations of educator misconduct under UPPAC supervision;

(b) offers recommendations of educator discipline to UPPAC, supported by Rule R277-215, and the evidence, at the conclusion of the investigation;

(c) provides an independent and objective investigative report for UPPAC and the Board; and

(d) may also be a UPPAC attorney but does not have to be.

(31) "LEA" or "local education agency" for purposes of Rules R277-210 through R277-217 includes the Utah Schools for the Deaf and the Blind.

(32) "Letter of education" is a letter sent by the Board to an educator to instruct and caution the educator in an area of professional conduct when the evidence does not show a violation of the educator standards in Rule R277-217, but the evidence may show conduct that could lead to a violation of the standards in the future.

(33) "Letter of warning" is a letter sent by the Board to an educator:

(a) for misconduct that was inappropriate or unethical; and

(b) that does not warrant longer term or more serious discipline.

(34) "License" means a teaching or administrative credential, including an endorsement, which is issued by the Board to signify authorization for the person holding the license to provide professional services in Utah's public schools.

(35) "Misdemeanor offense," for purposes of ~~[these rules]~~ Board rule, does not include:

(a) violations of municipal ordinances; or

(b) Class C Misdemeanors or Infractions in violation of Title 41, Utah Motor Vehicle Code.

(36) "National Association of State Directors of Teacher Education and Certification Educator Information Clearinghouse" or "NASDTEC Clearinghouse" means a database maintained by NASDTEC for the members of NASDTEC regarding persons who:

(a) had their license suspended or revoked;

(b) have been placed on probation; or

(c) have received a reprimand.

(37) "Notification of alleged educator misconduct" means the official UPPAC form that may be accessed on UPPAC's internet website, and may be submitted by any person, school, or LEA that alleges educator misconduct.

(38) "Party" means the complainant or a respondent.

(39) "Petitioner" means an individual seeking:

(a) an educator license following a denial of a license; or

(b) reinstatement following a license suspension.

(40) "Plea in abeyance" means the same as described in Subsection 77-2a-1(1).

(41) "Pornographic or indecent material" means the same as the term is defined in Subsection 76-10-1235(1)(a).

(42) "Reprimand" is an action by the Board, which:

(a) is imposed for misconduct that was longer term or more seriously unethical or inappropriate than conduct warranting a letter of warning, but not warranting invalidation of the educator's license;

(b) is accompanied by a flag on the educator's CACTUS file, which the educator may request the Board remove from the educator's CACTUS file two years from the date the educator's CACTUS file was flagged for investigation, or after such other time period as prescribed by the Board; and

(c) may include specific directives that the educator must complete ~~[prior to]~~ before requesting the flag be removed from the educator's CACTUS file under Subsection (43)(b).

(43) "Respondent" means an educator against whom:

(a) a complaint is filed; or

(b) an investigation is undertaken.

(44) "Revocation" means a permanent invalidation of a Utah educator license.

(45) "School-related activity" means a class, event, activity, or program:

(a) occurring at the school before, during, or after school hours; or

## NOTICES OF PROPOSED RULES

(b) that a student attends at a remote location as a representative of the school or with the school's authorization.

(46) "Serve" or "service," as used to refer to the provision of notice to a person, means:

(a) delivery of a written document to a respondent; and

(b) delivery that may be made in person, by mail, by electronic correspondence, or by any other means reasonably calculated, under all of the circumstances, to notify a respondent to the extent reasonably practical or practicable of the information contained in the document.

(47) "Sexually explicit conduct" means the same as that term is defined in Section 76-5b-103.

(48) "Suspension" means an invalidation of a Utah educator license, which may be reinstated after:

(a) the educator completes specific conditions identified in the consent to discipline or hearing report;

(b) the passage of the time specified in the consent to discipline or hearing report; and

(c) Board action to reinstate the license following a reinstatement hearing as described in Rule R277-213.

(49)(a) "Under the influence of alcohol or an illegal drug" means that a person:

(i) is under the influence of alcohol, an illegal drug, or the combined influence of alcohol and drugs to a degree that renders the person incapable of effectively working in a public school;

(ii) has sufficient alcohol in the person's body that a subsequent chemical test shows that the person has a blood or breath alcohol concentration of .05 grams or greater at the time of the test; or

(iii) has a blood or breath alcohol concentration of .05 grams or greater during work hours at a public school.

(b) An educator is presumed to be "under the influence of alcohol or an illegal drug" if the educator refuses a lawful request, made with reasonable suspicion by the educator's LEA, to submit to a drug or alcohol test.

(50) "Utah Professional Practices Advisory Commission" or "UPPAC" means an advisory commission established to assist and advise the Board in matters relating to the professional practices of educators, established in Section 53E-6-501.

(51) "UPPAC attorney file" means a file:

(a) that is kept by the attorney assigned by UPPAC to investigate or prosecute a case that contains:

(i) the attorney's notes; and

(ii) other documents prepared by the attorney in anticipation of an eventual hearing; and

(b) that is classified as protected pursuant to Subsection 63G-2-305(18).

(52) "UPPAC background check file" means a file maintained securely by UPPAC on a criminal background review that:

(a) contains information obtained from:

(i) BCI; and

(ii) letters, police reports, court documents, and other materials provided by an applicant; and

(b) is classified as private under Subsection 63G-2-302(2).

(53) "UPPAC case file" means a file:

(a) maintained securely by UPPAC on an investigation into educator misconduct;

(b) opened following UPPAC's direction to investigate alleged misconduct;

(c) that contains the original notification of alleged misconduct with supporting documentation, correspondence with the

Executive Secretary, the investigative report, the stipulated agreement, the hearing report, and the final disposition of the case;

(d) that is classified as protected under Subsection 63G-2-305(10) until the investigation and any subsequent proceedings before UPPAC and the Board are completed; and

(e) that after a case proceeding is closed, is considered public under GRAMA, unless specific documents contained therein contain non-public information or have been otherwise classified as non-public under GRAMA, in which case the file may be redacted or partially or fully restricted.

(54) "UPPAC evidence file" means a file:

(a) maintained by UPPAC investigator containing materials, written or otherwise, obtained by the UPPAC investigator during the course of the investigation;

(b) that contains correspondence between the investigator and the educator or the educator's counsel;

(c) that is classified as protected under Subsection 63G-2-305(10) until the investigation and any subsequent proceedings before UPPAC and the Board are completed; and

(d) that is considered public under GRAMA after case proceedings are closed, unless specific documents contained therein contain non-public information or have been otherwise classified as non-public under GRAMA.

(55) "Weapon" means an item that in the manner of the item's use or intended use is capable of causing death or serious bodily injury.

**KEY: professional practices, definitions, educators**

**Date of Last Change:** ~~2024~~~~February 7, 2020~~

**Notice of Continuation:** February 10, 2021

**Authorizing, and Implemented or Interpreted Law:** Art X Sec 3; 53E-6-506; 53E-3-401

### NOTICE OF PROPOSED RULE

**TYPE OF FILING:** Amendment

**Rule or Section Number:**

**R277-211**

**Filing ID:**  
**56192**

### Agency Information

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state and zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
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:**

R277-211. Utah Professional Practices Advisory Commission (UPPAC), Rules of Procedure: Notification to Educators, Complaints and Final Disciplinary Actions

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

This rule is being amended to update provisions on how UPPAC reviews new cases.

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

The amendments specifically update the procedures for the Executive Secretary to initiate proceedings against educators.

Other amendments are made to the procedures involving hearings on minor violations and complaints, as well as the requirements for a respondent's consent to discipline.

**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.

This rule changes do not add quantifiable costs for the Utah Professional Practices Advisory Commission (UPPAC) executive secretary, UPPAC, or the Utah State Board of Education (USBE). The procedural updates can be accomplished with existing staff and resources.

**B) Local governments:**

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. Local Education Agencies (LEAs) are many times already consulted regarding UPPAC cases.

The formalization of the process through this rule change does not add any quantifiable costs for LEAs.

**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 UPPAC, LEAs, and educators.

**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.

The procedural changes do not add costs for educators or any other entities.

**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 quantifiable costs for USBE, UPPAC, LEAs, or educators related to the procedural 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**

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

## NOTICES OF PROPOSED RULES

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The 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)	Section 53E-6-506
----------------------	-------------------------	-------------------

### Public Notice Information

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

**A) Comments will be accepted until:** 01/03/2014

**9. This rule change MAY become effective on:** 01/10/2024

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

### Agency Authorization Information

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	11/15/2023
---	--	--------------	------------

### R277. Education, Administration.

#### R277-211. Utah Professional Practices Advisory Commission (UPPAC), Rules of Procedure: Notification to Educators, Complaints and Final Disciplinary Actions.

##### R277-211-1. 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) Section 53E-6-506, which directs the Board to adopt rules regarding UPPAC duties and procedures; and
- (c) 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 procedures regarding:

- (a) notifications of alleged educator misconduct;
- (b) review of notifications by UPPAC; and
- (c) complaints, consents to discipline, and defaults.

(3) Title 63G, Chapter 4, Administrative Procedures Act, does not apply to this rule under the exemption of Subsection 63G-4-102(2)(d).

##### R277-211-2. Initiating Proceedings Against Educators.

~~[(1) The Executive Secretary may refer a case to UPPAC to make a determination if an investigation should be opened regarding an educator:~~

~~—(a) upon receiving a notification of alleged educator misconduct; or]~~

(1)(a) The Executive Secretary shall refer a case to UPPAC to make a determination if an investigation should be opened regarding an educator upon receiving a notification of alleged educator misconduct implicating a violation of the Rule R277-217, Educator Standards or Utah law.

(b) The Executive Secretary may refer a case to UPPAC upon the Executive Secretary's own initiative.

(2) If an informant seeks to report information to UPPAC concerning alleged educator misconduct, the informant shall submit an allegation of misconduct to the Executive Secretary in writing, including the following:

- (a) the informant's:
  - (i) name;
  - (ii) position, such as administrator, teacher, parent, or student;
  - (iii) telephone number;
  - (iv) address; and
  - (v) contact information;
- (b) information about the educator against whom the allegation is made:

- (i) name;
- (ii) position, such as administrator, teacher, candidate; and
- (iii) if known, the address and telephone number; and
- (c) the facts on which the allegation is based and supporting information.

(3) If an informant submits a written allegation of misconduct as provided in this rule, ~~[the informant may be notified]~~ the Executive Secretary shall notify the informant of a final action taken by the Board regarding the allegation.

(4)(a) Proceedings initiated upon the Executive Secretary's own initiative may be based on information received through a telephone call, letter, newspaper article, media information, notice from another state, or by other means.

(b) The Executive Secretary may also recommend an investigation based on an anonymous allegation, notwithstanding the provisions of this rule, if the allegation bears sufficient indicia of reliability.

(5)(a) The USBE Internal Audit Department shall refer to UPPAC and the LEA any complaint against an educator that would violate Rule R277-217, Educator Standards, or Utah law.

(b) The Executive Secretary shall consult with the educator's LEA and request any relevant evidence from an educator's LEA concerning a complaint referred under Subsection (5)(a).

([5]6) The Executive Secretary shall permanently maintain all written allegations, subsequent dismissals, actions, or disciplinary letters related to a case against an educator in the UPPAC case file.

**R277-211-3. Review of Notification of Alleged Educator Misconduct.**

(1)(a) Upon receipt of a notification of alleged educator misconduct, the Executive Secretary shall review the notification with UPPAC and recommend one of the following actions to UPPAC:

(i) dismiss the matter if the alleged misconduct does not involve an issue that UPPAC should address; or

(ii) open a case if the alleged misconduct involves an issue that may be appropriately addressed by UPPAC and the Board.

(b) In considering whether to open a case regarding an allegation of educator misconduct, UPPAC shall consider the known facts and circumstances surrounding the allegation to determine whether opening a case is warranted.

(c) UPPAC shall open a case most readily when the evidence shows that:

(i) the alleged misconduct involves the physical or emotional safety and well-being of a student;

(ii) the alleged misconduct had a highly visible impact on the educator's school community;

(iii) the alleged misconduct has the potential to damage the integrity of the education profession;

(iv) the educator's LEA recommends the Board investigate the matter; or

(v) the educator has received prior UPPAC discipline.

(c) If UPPAC votes to open a case, UPPAC shall also determine whether to:

(i) initiate an investigation; or

(ii) invite the educator to participate in an expedited hearing as described in Section R277-211-5.

(2)(a) ~~[Prior to]~~ Before a UPPAC investigator's initiation of an investigation, the Executive Secretary shall send an investigative letter to the following:

(i) the educator to be investigated;

(ii) the LEA that employs the educator; and

(iii) the LEA where the alleged activity occurred.

(b) The Executive Secretary shall place a flag on the educator's CACTUS file after:

(i) sending the educator an investigative letter; and

(ii) directing UPPAC staff to begin gathering evidence relating to the allegations.

(c) The Executive Secretary may not place a flag on an educator's CACTUS file if the educator agrees to an expedited hearing under Section R277-~~[215]~~211-5 unless the expedited hearing panel recommends a full investigation.

(3)(a) The investigator shall review relevant documentation and interview individuals who may have knowledge of the allegations.

(b) The investigator shall prepare an objective and independent investigative report of the findings of the investigation and a recommendation supported by the evidence and Rule R277-215.

(c) If the investigator discovers additional evidence of unprofessional conduct beyond the original allegations, the investigator may include the additional evidence of misconduct in the investigative report provided that the educator has had the opportunity to respond to the additional evidence.

(d) The investigator shall submit the investigative report to the Executive Secretary.

(e) The Executive Secretary shall add the investigative report described in Subsection (3)(d) to a UPPAC meeting agenda.

(f) The investigative report described in Subsection (3)(d) shall become part of the UPPAC case file.

(4) UPPAC shall review the investigative report and take one of the following actions:

(a) Recommend that the Board clear the CACTUS flag and take no action; or

(b) make an initial recommendation consistent with the evidence and Rule R277-215.

(5) After receiving an initial recommendation from UPPAC for action, the Executive Secretary shall:

(a) prepare and serve a complaint; or

(b) negotiate and prepare a proposed consent to discipline.

(6)~~[(a)]~~ Upon request of an educator, UPPAC will provide ~~[an electronic or paper]~~ a copy of the UPPAC case file and evidence file to the educator.

~~[(b)] UPPAC may charge fees in accordance with Section R277-103-5 if the educator requests a paper copy.~~

**R277-211-4. Expedited Hearings on Criminal Charges in lieu of Initial UPPAC Review.**

(1) In a case involving the first report of an arrest, citation, or charge of an educator, which requires self-reporting by the educator under Section R277-217-4 the Executive Secretary, with the consent of the educator, may schedule the matter for an expedited hearing in lieu of initially referring the matter to UPPAC.

(2)(a) The Executive Secretary shall hold an expedited hearing within 60 days of a report of an arrest, citation, or charge, unless otherwise agreed upon by both parties.

(b) An expedited hearing panel shall conduct an expedited hearing on a criminal charge and include the following additional invited participants:

(i) the educator;

(ii) the educator's attorney or representative;

(iii) a UPPAC attorney; and

(iv) a representative of the educator's LEA.

(3) The panel may consider the following matters at an expedited hearing on a criminal charge:

(a) an educator's oral or written explanation of the events;

(b) a police report;

(c) a court docket or transcript;

(d) an LEA's investigative report or employment file; and

(e) additional information offered by a participant in the expedited hearing if the Executive Secretary deems it probative of the issues at the expedited hearing.

(4) After reviewing the evidence described in Subsection (3), the expedited hearing panel shall make written findings and a recommendation to UPPAC consistent with the evidence and Rule R277-215 to do one of the following:

(a) close the case;

(b) close the case upon completion of court requirements;

(c) recommend that the Board issue a letter of education or letter of warning~~[to the Board]~~;

(d) open a full investigation; or

(e) recommend action by the Board, subject to an educator's due process rights under ~~[these rules]~~ Rule 277-210 through Rule R277-217.

(5) An expedited hearing on a criminal charge may be recorded, but the testimony from the expedited hearing is inadmissible during a future UPPAC action related to the allegation unless the educator stipulates to admitting the recording.

(6) If the Board fails to adopt UPPAC's recommendation, UPPAC may open a full investigation or issue a complaint.

## NOTICES OF PROPOSED RULES

(7) An expedited hearing panel may proceed under this section with only two voting panel members with the stipulation of the educator.

### **R277-211-5. Expedited Hearings on Minor Violations of the Educator Standards.**

(1) Upon review of an allegation of educator misconduct, UPPAC may recommend conducting an expedited hearing if:

(a) the material evidence provided by the informant does not appear to be disputed;

(b) the allegations, if true, implicate the presumption for a letter of education or letter of warning under Subsection R277-215-2(9); and

(c) the educator consents to participate.

(2) If an educator elects not to participate in an expedited hearing after UPPAC opens a case, the Executive Secretary shall initiate an investigation into the allegations of misconduct with no prejudice to the educator for not participating in the expedited hearing.

(3) At an expedited hearing under this section, an expedited hearing panel shall conduct the hearing and include the following invited individuals:

(a) the educator;

(b) the educator's attorney or representative;

(c) a UPPAC attorney; and

(d) an administrator from the educator's school or LEA.

(4) At an expedited hearing under this section, the panel may consider:

(a) an educator's oral or written explanation of the events;

(b) an LEA's investigative report or employment file, including witness statements; and

(c) additional information proffered by a participant in the expedited hearing if the Executive Secretary deems it probative of the issues at the expedited hearing.

(5) After reviewing the evidence described in Subsection (4), the expedited hearing panel shall make written findings and a recommendation consistent with the evidence and Rule R277-215 to do one of the following:

(a) close the case;

(b) close the case upon completion of recommended training or other educator requirements;

(c) issue a letter of education or letter of warning; or

(d) open a full investigation.

(6) If an expedited hearing panel recommends a full investigation be opened, the Executive Secretary shall follow the requirements set forth in Subsection R277-211-3(2).

(7) An expedited hearing under this section may be recorded.

(8) Testimony offered at an expedited hearing may be considered in a subsequent report to UPPAC or hearing ~~if a full investigation is opened~~.

(9) An expedited hearing panel may proceed under this section with only two voting panel members with the stipulation of the educator.

### **R277-211-6. Complaints.**

(1) If UPPAC determines that an allegation is sufficiently supported by evidence discovered in the investigation, the Executive Secretary may direct the UPPAC attorney to serve a complaint upon the educator being investigated.

(2) At a minimum, a complaint shall include:

(a) a statement of legal authority and jurisdiction under which the action is being taken;

(b) a statement of the facts and allegations upon which the complaint is based;

(c) other information necessary to enable the respondent to understand and address the allegations;

(d) a statement of the potential consequences if an allegation is found to be true or substantially true;

(e) a statement that the respondent shall answer the complaint and request a hearing, if desired, within 30 days of the date the complaint is mailed to the respondent;

(f) a statement that the respondent ~~is required to~~ shall file a written answer described in Subsection (2)(e) with the Executive Secretary;

(g) a statement advising the respondent that if the respondent fails to respond within 30 days, the Executive Secretary may issue a default order in accordance with Section R277-211-8;

(h) a statement that, if a hearing is requested, the hearing will be scheduled no less than 45 days, nor more than 180 days, after receipt of the respondent's answer, unless a different date is agreed to by both parties in writing;

(i) a copy of the applicable hearing rules as required by Section 53E-6-607; and

(j) if the respondent is not represented by counsel, a written guide to help the respondent understand the UPPAC investigation and hearing process.

(3) On the Executive Secretary's own motion, the Executive Secretary, or the Executive Secretary's designee, with notice to the parties, may reschedule a hearing date.

(4)(a) A respondent may file an answer to a complaint by filing a written response signed by the respondent or the respondent's attorney with the Executive Secretary within 30 days after the complaint is mailed.

(b) The answer shall include:

(i) a request for a hearing;

(ii) the file number of the complaint;

(iii) the names of the parties; and

(iv) the relief that the respondent seeks at a hearing.

(c) As an alternative to filing an answer, the respondent may file a voluntary surrender pursuant to Rule R277-216.

(5)(a) The Executive Secretary shall schedule a hearing, if requested by the respondent, in accordance with Subsection (2)(h) and Rule R277-212.

(b) If the parties can reach an agreement ~~prior to~~ before the hearing consistent with the terms of UPPAC's initial recommendation, the UPPAC attorney may negotiate a proposed consent to discipline with the respondent.

(c) A proposed consent to discipline described in Subsection (5)(b) shall be submitted to the Board for the Board's consideration in accordance with Section R277-211-7.

(6)(a) If a respondent does not respond to the complaint within 30 days, the Executive Secretary may initiate default proceedings in accordance with the procedures set forth in Section R277-211-8.

(b) If the Executive Secretary enters an order of default, the Executive Secretary shall make a recommendation to the Board for discipline consistent with the evidence and Rule R277-215.

~~[(c) If a default results in a suspension, a default may include conditions that an educator shall satisfy before the educator may qualify for a reinstatement hearing.]~~

**R277-211-7. Proposed Consent to Discipline.**

(1) At any time after UPPAC has made an initial recommendation, a respondent may accept UPPAC's initial recommendation, rather than request a hearing, by entering into a proposed consent to discipline.

(2) By entering into a proposed consent to discipline, a respondent waives the respondent's right to a hearing to contest the recommended disposition, contingent on final approval by the Board.

(3) At a minimum, a proposed consent to discipline shall include:

(a) a summary of the facts, the allegations, the presumption described in Rule R277-215, mitigating or aggravating factors described in Rule R277-215, and the evidence relied upon by UPPAC in its recommendation;

(b) a statement that the respondent admits or does not contest the facts recited in the proposed consent to discipline as true for purposes of the Board administrative action;

(c) a statement that the respondent:

(i) waives the respondent's right to a hearing to contest the allegations that gave rise to the investigation; and

(ii) agrees to the proposed action [~~limitations on the respondent's license or surrenders the respondent's license~~] rather than contest the allegations;

(d) a statement that the respondent agrees to the terms of the proposed consent to discipline and other provisions applicable to the case, such as remediation, assessment and recommended counseling, restitution, rehabilitation, and other conditions, if any, under which the respondent may request a reinstatement hearing or a removal of the reprimand;

(e) a statement that the action and the proposed consent to discipline shall be reported to other states through the NASDTEC Educator Information Clearinghouse; [~~and any attempt to present to any other state a valid Utah license shall result in further licensing action in Utah.~~]

(f) a statement that respondent waives the respondent's right to contest the facts stated in the proposed consent to discipline at a subsequent reinstatement hearing, if any;

(g) a statement that all records related to the proposed consent to discipline shall remain permanently in the UPPAC case file;

(h) a statement reflecting the classification of the proposed consent to discipline [~~classification~~] under Title 63G, Chapter 2, Government Records Access and Management Act;

(i) a statement that information regarding the proposed reprimand, suspension, or revocation may be included in an online licensing database that is available for public access in accordance with [R277-512] Rule R277-312.

(j) a statement that a violation of the terms of an approved consent to discipline may result in additional disciplinary action and may affect the reinstatement process; and

(k) a statement that the educator understands that the Board is not bound by UPPAC's recommendation or the negotiated proposed consent to discipline unless the Board approves the proposed consent to discipline;

(l) if for a suspension of the educator's license:

(i) specific conditions that an educator must satisfy [prior to] ~~before~~ requesting a reinstatement hearing; and

(ii) a minimum time period that must elapse before the educator may request a reinstatement hearing; [~~and~~]

(m) if for suspension or revocation of a license, a statement that the respondent may not work or volunteer in a public school in accordance with Subsection 53E-6-603(3); and [~~is~~]

~~(i) may not seek or provide professional services in a public school in the state;~~

~~(ii) may not seek to obtain or use an educator license in the state; or~~

~~(iii) may not work or volunteer in a public K-12 setting in any capacity without express authorization from the UPPAC Executive Secretary, unless or until the respondent:~~

~~(A) first obtains a valid educator license or authorization from the Board to obtain such a license; or~~

~~(B) satisfies other provisions provided in the proposed consent to discipline.]~~

(n) if for suspension or revocation of a license, a statement that any attempt to represent to any other state a valid Utah license shall result in further licensing action in Utah.

(4)(a) The Executive Secretary shall forward a proposed consent to discipline to the Board for approval.

(b) If the Board does not approve a proposed consent to discipline, the Board may:

(i)(A) remand the case to UPPAC and shall include issues or questions that need to be addressed;

(B) offer respondent the opportunity for a hearing; or

(C) provide alternative terms and disposition to the Executive Secretary, consistent with the available evidence and presumptions described in Rule R277-215, that would be satisfactory to the Board to be submitted to the educator for consideration;

(ii) direct the Executive Secretary to issue a letter of education or letter of warning or dismiss the matter; or

(iii) take other appropriate action consistent with due process and Rule R277-215.

(5) If the respondent accepts a consent to discipline with alternative terms and disposition proposed by the Board, the consent to discipline, as modified, is a final Board administrative action without further Board consideration.

(6) If the terms approved by the Board are rejected by the respondent, the proceedings shall continue from the point under these procedures at which the agreement was negotiated, as if the consent to discipline had not been submitted.

(7) If the Board remands to UPPAC to provide respondent the opportunity for a hearing under Subsection (4)(b)(i)(B), the Executive Secretary shall:

(a) notify the parties of the decision;

(b) direct a UPPAC attorney to issue a complaint; and

(c) direct the proceedings as if the proposed consent to discipline had not been submitted.

(8) If the Board approves a proposed consent to discipline, the approval is a final Board administrative action and the Executive Secretary shall:

(a) notify the parties of the decision;

(b) update CACTUS to reflect the action;

(c) report the action to the NASDTEC Educator Information Clearinghouse if the agreement results in:

(i) a revocation;

(ii) a suspension; or

(iii) a reprimand;

(d) direct the appropriate penalties to begin; and

(e) notify the LEAs throughout the state.

**R277-211-8. Default Procedures.**

(1) If a respondent does not respond to a complaint within 30 days from the date the complaint is served, the Executive Secretary may issue an order of default against the respondent consistent with the following:



## NOTICES OF PROPOSED RULES

(a) the Executive Secretary shall prepare and serve on the respondent an order of default including:

- (i) a statement of the grounds for default; and
- (ii) a recommended disposition if the respondent fails to file a response to a complaint;

(b) ten days following service of the order of default, a UPPAC attorney shall attempt to contact respondent or respondent's attorney by telephone or electronically unless the respondent is incarcerated and unrepresented;

(c) UPPAC shall maintain documentation of attempts toward written, telephonic, or electronic contact;

(d) the respondent has 20 days following service of the order of default to respond to UPPAC; and

(e) if UPPAC receives a response from respondent to a default order before the end of the 20 day default period, UPPAC shall allow respondent a final ten day period to respond to a complaint.

(2) The Executive Secretary shall make a recommendation to the Board for discipline consistent with the evidence and Rule R277-215.

(3) If an educator's default results in a suspension, the order of default shall include conditions the educator must meet before requesting a reinstatement hearing.

### R277-211-9. Disciplinary Letters and Dismissal.

(1) If UPPAC recommends issuance of a letter of warning, letter of education, or dismissal, the Executive Secretary shall forward the case to the Board for review on a consent calendar.

(2) If the Board does not approve a recommendation for a letter of warning, letter of education, or dismissal described in Subsection (1), the Board may:

- (a) remand the case to the Executive Secretary with:
  - (i) direction as to the issues UPPAC should address;
  - (ii) alternative terms and disposition that would be satisfactory to the Board to be submitted to the educator for consideration; and

(iii) the opportunity for the educator to participate in a hearing;

(b) dismiss the matter; or

(c) take other appropriate action consistent with due process and Rule R277-215.

(3) If the Board approves a letter of warning or letter of education, the Executive Secretary shall:

(a) prepare the letter of warning or letter of education and mail it to the educator;

(b) place a copy of the letter of warning or letter of education in the UPPAC case file; and

(c) update CACTUS to reflect that the case is closed.

**KEY: teacher licensing, conduct, hearings**

**Date of Last Change:** ~~2024~~**February 7, 2020**

**Notice of Continuation:** February 10, 2021

**Authorizing, and Implemented or Interpreted Law:** Art X Sec 3; 53E-6-506; 53E-3-401(4)

### NOTICE OF PROPOSED RULE

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R277-217</b>	<b>Filing ID:</b> <b>56193</b>
--------------------------------	-----------------	-----------------------------------

### Agency Information

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

### General Information

<b>2. Rule or section catchline:</b>
R277-217. Educator Standards and LEA Reporting
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being amended to add new provisions to the educator standards and change Local Education Agency (LEA) reporting requirements to the Utah Professional Practices Advisory Commission (UPPAC) when there are alleged violations.
<b>4. Summary of the new rule or change:</b>
The amendments specifically clarify educator conduct that is prohibited, as well as conduct that is required.
The amendments also update requirements for an LEA that reports educator misconduct to UPPAC.

### Fiscal Information

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This rule change is not expected to have fiscal impact on state government revenues or expenditures.
The changes apply to LEAs and educators.
<b>B) Local governments:</b>
This rule change is not expected to have fiscal impact on local governments' revenues or expenditures.
LEAs are now required to report educator conduct they become aware of through a parent. The requirement to



notify UPPAC already existed for internal investigations, so this does not create a new process for LEAs.

The Utah State Board of Education (USBE) does not estimate that this will cause a quantifiable increase in LEA staff time. LEAs may wish to provide additional training to their educators to clarify educator conduct, but there are no requirements to do so.

**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 LEAs and educators.

**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.

Educators are provided clarity in their duties from the changes but there are no quantifiable costs or savings.

**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 quantifiable costs for LEAs or educators to comply with the 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**

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

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

The 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	Section 53E-3-501
Title 53E, Chapter 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.)

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	01/10/2024
---	------------

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

#### Agency Authorization Information

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	11/15/2023
---	---	--------------	------------

#### R277. Education, Administration.

##### R277-217. Educator Standards and LEA Reporting.

##### R277-217-1. 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-3-501(1)(a), which directs the Board to make rules regarding the certification of educators; and
  - (d) Title 53E, Chapter 6, Educator Licensing and Professional Practices Act, which provides all laws related to educator licensing and professional practices.
- (2) The purpose of this rule is to:
- (a) establish statewide ethical standards for educators;
  - (b) establish reporting requirements for educators and LEAs; and
  - (c) recognize that educators are professionals and share common professional standards, expectations, and role model responsibilities.

##### R277-217-2. Prohibited Conduct by an Educator.

An educator may not:

- (1) be convicted of a felony;
- (2) be convicted of a misdemeanor offense that:
  - (a) adversely affects the educator's ability to perform an assigned duty and carry out the educator's responsibilities; or
  - (b) adversely affects the well being of students;
- (3) be convicted of, or engage in conduct of a sexual nature described in Subsection 53E-6-603(2);
- (4) participate in sexual, physical, or emotional harassment towards any colleague or public school-age student;
- (5) engage in:
  - (a) a single egregious instance or pattern of inappropriate contact in any communication, including written, verbal, or electronic, with a minor, student, colleague, or member of the community; or
  - (b) a single egregious instance or pattern of boundary violations with a student;
- (6) solicit, encourage, or consummate an inappropriate relationship, whether written, verbal, or physical, with a student or minor;
- (7) accept an inappropriate gift from, or give an inappropriate gift to, a student;

(8) be convicted of or commit a criminal offense involving a child, including physical abuse, cruelty, or exploitation of child;

(9) use corporal punishment, excessive physical force, or inappropriate physical restraint, except as provided in Section 53G-8-302;

(10) provide alcohol or unauthorized drugs to a student or allow a student under the educator's supervision or control to consume or obtain alcohol or unauthorized drugs;

(11) attend school or a school-related activity in an assigned employment-related capacity while possessing, using, or under the influence of alcohol or an illegal drug;

(12) attend school or a school-related activity in an assigned employment-related capacity after intentionally exceeding the prescribed dosage of a prescription medication that may impair the educator;

(13) possess or distribute an illegal drug or be convicted of any crime related to an illegal drug, including a prescription drug not specifically prescribed to the educator;

(14) be convicted of an alcohol-related offense;

(15) use or attempt to use an LEA computer or information system to access information that may be detrimental to young people or inconsistent with the educator's role model responsibility;

(16) knowingly possess, while at school or any school-related activity, any pornographic or indecent material in any form;

(17) use school equipment to intentionally view, create, distribute, or store pornographic or indecent material in any form;

(18) knowingly use, view, create, distribute, or store pornographic or indecent material involving children;

~~\_\_\_\_\_ (19) expose students to material the educator knows or should have known to be inappropriate given the age and maturity of the students.]~~

(19) expose students to sensitive materials:

(a) as defined in Section 53G-10-103; and

(b) as determined by the educator's LEA.

(20) violate state laws regarding the possession of a firearm while on school property or at a school-sponsored activity;

(21) knowingly allow a student to violate an LEA policy or law concerning possession or access to a weapon;

(22) interfere with or discourage a student's or colleague's legitimate exercise of constitutional, legal, or civil rights, acting consistent with the law and an LEA's policy;

(23) discriminate against, harass, exclude a student from participating in any program, deny or grant any benefit to a student, or encourage a student to develop a prejudice on the basis of:

(a) race;

(b) color;

(c) creed;

(d) sex;

(e) national origin;

(f) marital status;

(g) political or religious belief;

(h) physical or mental condition;

(i) family, social, or cultural background;

(j) sexual orientation; or

(k) gender identification;

(24) invite, suggest, or encourage a student to reconsider or change the student's sexual orientation or gender identity;

(25) use the educator's position, through instruction, materials, or symbols, to actively endorse, promote, or disparage a particular partisan, religious, denominational, sectarian, agnostic, or atheistic belief or viewpoint, in a manner inconsistent with the policy of the educator's LEA;

(2[4]6) knowingly or intentionally permit unauthorized collection, sharing, or use of student data;

(2[5]7) knowingly violate student confidentiality unless revealing confidential information to an authorized person serves the best interest of the student and serves a lawful purpose;

(2[6]8) violate:

(i) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act;

(ii) Title 53E, Chapter 9, Student Privacy and Data Protection;

(iii) Rule R277-107, Educational Services Outside of an Educator's Regular Employment;[~~or~~]

(iv) Section R277-120-5, Classroom Materials Developed by Utah Educators; or

(v) Sections 53G-10-401 through 53G-10-403, Rule R277-474, or other Utah law regarding sex education; or

([27]29) cheat or engage in academic dishonesty, whether on behalf of a student, or in the educator's own educational pursuits.

### **R277-217-3. Required Conduct for an Educator.**

An educator shall:

(1) comply with all federal, state, and local laws;

(2) maintain a professional educator/student relationship, including by:

(a) treating a student with dignity and respect by promoting the health, safety and well being of students; and

(b) maintaining appropriate verbal, emotional and social boundaries;

(3) take prompt and appropriate action to stop, mitigate, and prevent harassment or discriminatory conduct toward a student or school employee that the educator knew or should have known may result in a hostile, intimidating, abusive, offensive, or oppressive environment;

(4) take prompt and appropriate action to protect a student from any known condition detrimental to the student's physical health, mental health, safety, or learning;

(5) report suspected child abuse or neglect to law enforcement or the Division of Child and Family Services in accordance with Sections 53E-6-701 and 80-2-602;

(6) cooperate in providing all relevant information and evidence to the proper authority in the course of an investigation by a law enforcement agency or by the Division of Child and Family Services regarding potential criminal activity, except that an educator may decline to give evidence against himself or herself in an investigation if the evidence may tend to incriminate the educator as that term is defined by the Fifth Amendment of the U.S. Constitution;

(7) take appropriate steps to notify a student's parents and refer a student to appropriate prevention services if a student threatens suicide or self harm as required by Subsections 53E-9-203(7) and 53G-9-604(2);

(8) provide truthful, accurate, and complete information in:

(a) licensing, transfer, and employment applications or other documentation;

(b) evaluations of the educator, other educators, or students;

(c) proceedings related to educator licensure, employment, or related benefits;

(d) student IEP plans and related special education documentation;

(9) be forthcoming with truthful, accurate, and complete information to an appropriate authority regarding known educator misconduct that could adversely impact performance of a professional responsibility, by another educator;

(10) notify the Superintendent at the time of application for licensure of:

(a) current investigations involving professional misconduct in another jurisdiction;

(b) prior licensing disciplinary action in another jurisdiction; and

(c) past criminal convictions;

(11) report an arrest, citation, charge or conviction to the educator's LEA in accordance with Section R277-217-4;

(12) conduct financial business with integrity by honestly accounting for all funds committed to the educator's charge, as school responsibilities require, consistent with LEA policy;

(13) follow an LEA's fiscal policy for collecting money in connection with a school activity, accounting for all money collected, and not commingling LEA or school funds with personal funds as described in Rule R277-113;[and]

(14) demonstrate honesty and integrity by strictly adhering to all state and LEA instructions and protocols in managing and administering a standardized test to a student consistent with Section 53E-4-312 and Rule R277-404[-]; and

(15) use supplemental materials consistent with LEA policy as required by Subsection 53G-4-402(26).

### **R277-217-4. Educator Reporting of Arrests, Citations, Charges, and Convictions.**

(1) An educator who is arrested, cited, or charged with the following alleged offenses shall report the arrest, citation, or charge within 48 hours or as soon as possible to the licensed educator's district superintendent, charter school director, or the LEA's designee, or to the Executive Secretary if not employed:

(a) any matters involving an alleged sex offense;

(b) any matters involving an alleged drug-related offense;

(c) any matters involving an alleged alcohol-related offense;

(d) any matters involving an alleged offense against the person under Title 76, Chapter 5, Offenses Against the Person;

(e) any matters involving an alleged felony offense under Title 76, Chapter 6, Offenses Against Property;

(f) any matters involving an alleged crime of domestic violence under Title 77, Chapter 36, Cohabitant Abuse Procedures Act; and

(g) any matters involving an alleged crime under federal law or the laws of another state comparable to the violations listed in Subsections (1)(a) through (f).

(2) An educator shall report any conviction or plea in abeyance for a felony or misdemeanor offense to the educator's LEA, or the Executive Secretary if not employed, within 48 hours, or as soon as possible thereafter.

(3) An LEA superintendent, director, or designee shall report conviction, arrest, or offense information received from an educator to the Superintendent within 48 hours of receipt of information from an educator.

(4) The Superintendent shall provide a form on the Board's website for reports required under this section.

(5) An educator shall report for work following an arrest and provide notice to the licensed educator's employer unless directed not to report for work by the employer, consistent with LEA policy.

## NOTICES OF PROPOSED RULES

### R277-217-5. LEA Reporting of Misconduct to UPPAC.

(1) An LEA shall notify UPPAC if an educator is determined pursuant to a judicial or administrative proceeding, or internal LEA investigation, to have violated the educator standards described in Sections R277-217-2 ~~[or]~~ and R277-217-3.

(2)(a) A district superintendent or a charter school director, or their respective designees, shall notify UPPAC and the educator of any allegation from a parent that an educator's conduct violated Sections R277-217-2 and R277-217-3 within 30 days of receiving the allegation.

(b) The Executive Secretary shall record an allegation received under Subsection (2)(a), but shall defer further investigation pending the LEA's determination of possible LEA discipline.

(c) The Executive Secretary shall classify allegations received under Subsection (1) or Subsection (2)(a) as private under Subsection 63G-2-302(2)(d).

(3) For each allegation referred to UPPAC under Subsections (1) and (2)(a), an LEA shall notify UPPAC of:

(a) the findings of the LEA's internal investigation or administrative proceedings;

(b) criminal charges filed by a prosecuting agency;

(c) the LEA's internal disciplinary action or decision not to take action, and the evidence supporting the decision; and

(d) any evidence that may be relevant if UPPAC chooses to investigate the matter.

~~[(2)]~~4 The Executive Secretary shall provide a form for an LEA to make a notification required under Subsections (1) and (2).

~~[(3)]~~5 Upon submitting a notification under Subsection (1) or (2), an LEA may make a recommendation to the Executive Secretary concerning whether an investigation by UPPAC would be appropriate under the circumstances, taking into account any employment action taken by the LEA, but the LEA's recommendation is not binding on UPPAC, which shall make its own independent determination consistent with Section R277-211-3.

~~[(4) If no related criminal charge is filed, an LEA is not responsible to notify UPPAC of an allegation if the LEA's internal investigation establishes that the allegation is unsupported.]~~

**KEY:** educator standards, professional practices, reporting

Date of Last Change: 2024~~October 4, 2022~~

Notice of Continuation: February 10, 2021

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53E-3-501; 53E-6

#### NOTICE OF PROPOSED RULE

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R277-477</b>	<b>Filing ID:</b> <b>56194</b>
--------------------------------	-----------------	-----------------------------------

#### Agency Information

<b>1. Department:</b>	Education
<b>Agency:</b>	Administration
<b>Building:</b>	Board of Education
<b>Street address:</b>	250 E 500 S
<b>City, state and zip:</b>	Salt Lake City, UT 84111

<b>Mailing address:</b>	PO Box 144200	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

#### General Information

##### 2. Rule or section catchline:

R277-477. Distributions of Funds from the Trust Distribution Account and Administration of the School LAND Trust Program

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

This rule is being amended to reduce the reporting burden of the School Land Trust Process and to clarify School LAND Trust plan requirements.

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

The amendments make the following updates:  
 1) clarify that middle schools and junior high schools may also select "Increasing Graduation Rates" as an academic area for a School LAND Trust plan goal;  
 2) update requirements involving the use of the School LAND Trust Final Report in the compliance process; and  
 3) remove the \$7,000 limitation on digital citizenship and safety as part of School LAND Trust academic plans.

#### 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 changes do not require any additional Utah State Board of Education (USBE) staff time or other resources.

###### B) Local governments:

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

Local Education Agencies (LEAs) and schools are provided additional flexibility in spending School LAND Trust funds and creating plans. There are no added costs for LEAs or schools.

###### 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 to USBE or LEAs to implement the 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**

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

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

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

The 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	Section 53F-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:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	11/15/2023
---	---	--------------	------------

**R277. Education, Administration.**

**R277-477. Distributions of Funds from the Trust Distribution Account and Administration of the School LAND Trust Program.**

**R277-477-1. 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 53F-2-404(2)(d), which allows the Board to adopt rules regarding the time and manner in which a student count shall be made for allocation of funds; and
- (c) 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) In accordance with Section 53D-2-202, through representation on the Land Trusts Protection and Advocacy Committee, the Board exercises trust oversight of:

- (a) the Common School Trust;
- (b) the School for the Deaf Trust; and
- (c) the School for the Blind Trust.

(3) The Board implements the School LAND Trust program and provides oversight, support, and training for school community councils and Charter Trust Land Councils consistent with Section 53G-7-1206, Rule R277-491, and this Rule R277-477.

(4) The purpose of this rule is to:

- (a) provide financial resources to a public school to implement a component of a school's Teacher and Student Success Plan to enhance and improve student academic achievement;
- (b) provide a means to involve a parent of a school's student in decision-making regarding the expenditure of School LAND Trust program funds allocated to the school;
- (c) provide direction in the distribution of funds from the Trust Distribution Account, as funded in Section 53F-2-404;
- (d) provide for appropriate and adequate oversight of the expenditure and use of funds by an approving entity, school administration, and the Board;
- (e) provide for proper allocation of funds as stated in Section 53F-2-404, and the appropriate and timely distribution of the funds;
- (f) enforce compliance with statutory and rule requirements, including the responsibility for a school community council to notify school community members regarding the use of funds; and
- (g) define the roles, duties, and responsibilities of the Superintendent with regards to the School Children's Trust.

**R277-477-2. Definitions.**

- (1) "Approving entity" means a school district board or a charter authorizer consistent with Section 53G-7-1206.
- (2) "Board plan approval meeting" means the meeting when the LEA governing board approves a school plan for the upcoming school year.
- (3)(a) "Charter trust land council" means a council comprised of a two person majority of parents or grandparents of students attending the charter school, elected by parents of students attending the charter school, convened to act in lieu of the school community council for the charter school.
- (b) "Charter trust land council" includes a charter school governing board if:
  - (i) the charter governing board meets the two-parent majority requirement; and
  - (ii) the charter school governing board chooses to serve as the charter trust land council.

(4) "Council" means a school community council or a charter trust land council.

(5) "Council plan approval meeting" means the meeting where a charter trust land council or school community council approves the school plan for the upcoming school year.

(6) "Digital citizenship" means the same as that term is defined in Section 53G-7-1202.

(7) "Fall enrollment report" means the audited census of students registered in Utah public schools as reported in the audited October 1 Fall Enrollment Report of the previous year.

(8) "Funds" means School LAND Trust program funding as defined in Section 53F-2-404.

(9) "Most critical academic need" means an academic need, consistent with the core standards in Rule R277-700, identified by a council through the annual review of schoolwide assessment data and other relevant indicators.

(10) "Newly opened charter school" means a charter school in its first two years of operation.

(11) "Newly opened satellite school" means a satellite school in its first two years of operation.

(12) "Parent," for a charter school, includes a grandparent of a student currently enrolled at the school.

(13)(a) "Principal" means an administrator licensed as a principal in the state and employed in that capacity at a school.

(b) "Principal" includes the director of a charter school.

~~[(14)](14) "Sample" means:~~

- ~~[(a)](a) one third of schools within a district;~~
- ~~[(b)](b) at least ten schools; and~~
- ~~[(c)](c) all schools if there are less than ten schools in a district.]~~

~~[(15)](14)~~ "Satellite charter school" has the same meaning as that term is defined in Section R277-550-2.

~~[(16)](15)~~ "School safety principles" has the same meaning as described in Section 53G-7-1202.

~~[(17)](16)~~ "Student" means a child in public school grades kindergarten through 12 counted on the fall enrollment report of an LEA.

~~[(18)](17)~~ "Teacher and Student Success Plan" or "TSSP" means the plan required of each school under Section 53G-7-1305.

~~[(19)](18)~~ "Trust Distribution Account" means the restricted account within the Uniform School Fund created under Subsection 53F-9-201(2).

~~[(20)](19)~~ "UPEFS" means the Utah Public Education Finance System.

~~[(21)](20)~~ "Website" means the School LAND Trust website.

**R277-477-3. Distribution of Funds - Local Board or Local Charter Board Approval of School LAND Trust Plans.**

(1) A public school receiving School LAND Trust program funds shall have:

- (a) a school community council as required by Section 53G-7-1202 and Rule R277-491;
- (b) a charter school trust land council as required by Section 53G-7-1205; or
- (c) an approved exemption under this rule.

(2) Notwithstanding Subsection (1)(a), the USDB Advisory Council may fill the responsibilities of a school community council for USDB.

(3) A public school receiving School LAND Trust program funds shall submit a membership form demonstrating compliance with the required membership in Subsection (1) that includes a



principal assurance consistent with Subsection 53G-7-1206(3)(c) by October 20 annually.

(4) A charter school that elects to receive School LAND Trust funds shall:

(a) have a charter trust land council consistent with Section 53G-7-1205; and

(b) receive training about Section 53G-7-1206.

(5) A charter trust land council that is not a charter governing board shall:

(a) be subject to Section 53G-7-1203;

(b) have parent or grandparent members elected by parents of students attending the charter school; and

(c) post the following items on the school's website by October 20 annually:

(i) an invitation to parents to serve on the Charter Trust Land Council;

(ii) the dollar amount the school receives each year from the School LAND Trust program;

(iii) a copy or link to the current Teacher and Student Success Plan;

(iv) approved minutes of Charter Trust Land Council meetings for at least a year;

(v) the proposed council meeting scheduled for the school year;

(vi) a means to contact the members of the school's Charter Trust Land Council directly;

(vii) a link or copy of the final reports of the school for the last two years, as required by Subsection 53G-7-1206(5);

(viii) a link or copy of the school plan for the current year.

(6) A charter school that is a small or special school may receive an exemption from the charter land trust council composition requirements contained in Section 53G-7-1205 upon application to the school's authorizer if the small or special school demonstrates and documents a good faith effort to recruit members to the charter trust land council.

(7) The principal of a charter school that elects to receive School LAND Trust funds shall submit a plan, approved by the school's governing board, to the approving entity on the School LAND Trust website:

(a) no later than April 1 for schools authorized by the State Charter School Board; or

(b) for a newly opening charter school, no later than November 1 in the school's first year to receive funding in the year the newly opening charter school opens.

(8)(a) An approving entity:

(i) shall consider a plan annually; and

(ii) may approve or disapprove a school plan.

(b) If an approving entity does not approve a plan, the approving entity shall:

(i) provide a written explanation why the approving entity did not approve the plan; and

(ii) request that the school revise the plan, consistent with Subsection 53G-7-1206(4)(d).

(9)(a) To receive funds, the principal of a public school shall submit a School LAND Trust plan to the approving entity annually through the School LAND Trust website using the form provided.

(b) The Board may grant an exemption to a school using the Superintendent-provided form, described in Subsection (8)(a), on a case-by-case basis.

(10) In addition to the requirements of Subsection (7), the School LAND Trust plan described in Subsections (6) and (8)(a) shall include the date the council voted to approve the plan.

(11)(a) The principal of a school shall ensure that a council member has an opportunity to provide a signature indicating the member's involvement in implementing the current School LAND Trust plan and developing the school plan for the upcoming year.

(b) The principal shall collect a council member's signature at the Council plan approval meeting or at a later time consistent with LEA policies.

(c) A school shall retain signatures collected under Subsection (11)(b) for no less than three years.

(d) A school shall provide copies of signatures collected under Subsection (11)(b) to the LEA governing board prior to the Board plan approval meeting.

(e) An approving entity may design the approving entity's own form to collect the information required by this Subsection (11).

(12)(a) An approving entity for a district school or a charter school authorized by an authorizer other than the State Charter School Board shall establish a timeline, including a deadline, for a school to submit a school's School LAND Trust plan.

(b) A timeline described in Subsection (10)(a) shall:

(i) require a school's School LAND Trust plan to be submitted to the approving entity with sufficient time so that the approving entity may approve the school's School LAND Trust plan no later than May 15 of each year; and

(ii) allow sufficient time for a council to reconsider and amend the council's School LAND Trust plan if the approving entity rejects the school's plan and still allow the school to meet the May 15 approving entity's approval deadline.

(c) After an approving entity has completed the approving entity's review, the approving entity shall notify the Superintendent that the review is complete.

(d) For an LEA to receive its full distribution in July, the LEA shall submit plans with all required approvals online no later than May 15.

(13)(a) Prior to approving a plan, an approving entity shall review a School LAND Trust plan under the approving entity's purview to confirm that a School LAND Trust plan contains:

(i) academic goals;

(ii) specific steps to meet the academic goals described in Subsection (11)(a)(i);

(iii) measurements to assess improvement; and

(iv) specific expenditures focused on student academic improvement needed to implement plan goals.

(b) The approving entity shall determine whether a School LAND Trust plan is evidence-based and consistent with the approving entity's pedagogy, programs, and curriculum.

(c) The president or chair of the approving entity shall provide training annually on the requirements of Section 53G-7-1206 to the members of the approving entity.

(14)(a) After receiving the notice described in Subsection (10)(c), the Superintendent shall review each School LAND Trust plan for compliance with the law governing School LAND Trust plans.

(b) The Superintendent shall report back to the approving entity concerning which School LAND Trust plans were found to be out of compliance with the law.

(c) An approving entity shall ensure that a School LAND Trust plan that is found to be out of compliance with the law by the Superintendent is amended or revised by the council to bring the school's School LAND Trust plan into compliance with the law.

## NOTICES OF PROPOSED RULES

(15) If an approving entity fails to comply with Subsection (12)(c), Superintendent may report the failure to the Audit Committee of the Board as described in Section R277-477-8.

### **R277-477-4. Appropriate Use of School LAND Trust Program Funds.**

(1) Parents, teachers, and the principal, in collaboration with an approving entity, shall review school wide assessment data annually and use School LAND Trust program funds in data-driven and evidence-based ways to improve educational outcomes, consistent with the academic goals of the school's teacher and student success plan framework under Section 53G-7-1304 and the priorities of the LEA governing board, including:

(a) strategies that are measurable and show academic outcomes with multi-tiered systems of support; and

(b) counselors and educators working with students and families on academic and behavioral issues when a direct impact on academic achievement can be measured.

(2) A school's School LAND Trust program expenditures shall have a direct impact on the instruction of students in the particular school's areas of most critical academic need and consistent with the academic priorities of the LEA's governing board:

(a) to increase achievement in:

- (i) English;
- (ii) language arts;
- (iii) mathematics; and
- (iv) science; and

(b) for ~~high schools~~ secondary schools to:

- (i) increase graduation rates; and
- (ii) promote college and career readiness.

(3) A school may not use School LAND Trust program funds for the following:

(a) costs related to district or school administration, including accreditation;

(b) expenses for:

- (i) construction;
- (ii) maintenance;
- (iii) facilities;
- (iv) overhead;
- (v) furniture;
- (vi) security; or
- (vii) athletics; or

(c) expenses for non-academic in-school, co-curricular, or extracurricular activities.

(4) A school that demonstrates appropriate progress and achievement consistent with the academic priorities of the LEA governing board outlined in Subsection (2) may request local board approval of a plan to address other academic goals if the plan includes:

(a) how the goal is in accordance with the core standards established in Rule R277-700;

(b) how the action plan for the goal is:

- (i) data-driven;
- (ii) evidence-based; and
- (iii) has a direct impact on the instruction of students consistent with Subsections (1) and (2);

(c) the data driving the decision to spend School LAND Trust funds for academic needs outlined in this Subsection (4); and

(d) the anticipated data source the school will use to measure progress.

~~[(5) A council may budget and spend no more than \$7,000 for an academic goal or component of an academic goal that incorporates any combination of the following:~~

~~(a) digital citizenship training under Subsection 53G-7-1202(3)(a)(iii); or~~

~~(b) safety principles consistent with Subsection 53G-7-1202(3)(a)(v).]~~

~~[(6)](5) A school district or local school board may not require a council or school to spend the school's School LAND Trust program funds on a specific use or set of uses.~~

~~[(7)](6) Student incentives implemented as part of an academic goal in the School LAND Trust program may not exceed \$2 per student in an academic school year.~~

### **R277-477-5. Distribution of Funds - Determination of Proportionate Share.**

(1) An LEA shall report the prior year expenditure of distributions for each school.

(2) The total expenditures each year described in Subsection (1) may not be greater than the total available funds for an LEA.

(3)(a) In an unanticipated circumstance, a school within an LEA may be allowed a small advance from a school's allocation for the next fiscal year when:

(i) the LEA has unspent School LAND Trust funds to cover the advance; and

(ii) the LEA governing board approves the advance.

(b) If a school receives an advance under Subsection

(3)(a):

(i) the LEA shall decrease the beginning allocation to the school for the next fiscal year in the same amount as the advance; and

(ii) restore the same advance amount to the unspent School LAND Trust funds of the LEA.

(c) A school's beginning School LAND Trust funds balance for a new school year shall be:

(i) the school's allocation for the new school year;

(ii) minus any advance approved under Subsection (3)(a);

(iii) plus any carry-over from the prior year.

(4) A school district shall adjust the current year distribution of funds received from the School LAND Trust program as described in Section 53F-2-404, as necessary to maintain an equal per student distribution within a school district based on:

(a) school openings and closings;

(b) boundary changes; and

(c) other enrollment changes occurring after the fall enrollment report.

(5) An LEA shall provide the current year distribution and carry-over amount from the prior school year to the principal by October 1 annually.

(6) A charter school and each of the charter school's satellite charter schools are a single LEA for purposes of public school funding.

(7)(a) For purposes of this section, "qualifying charter school" means a charter school that:

(i) would receive more funds from a per pupil distribution than the charter school receives from the base payment described in Subsection (6)(c); and

(ii) is not a newly opening charter school as described in Subsection (7).

(b) The Superintendent shall distribute the funds allocated to charter schools as described in this Subsection (7).



(c) The Superintendent shall first distribute a base payment to each charter school that is equal to the product of:

(i) an amount equal to the total funds available for all charter schools; and

(ii) at least 0.4%.

(d) After the Superintendent distributes the amount described in Subsection (6)(c), the Superintendent shall distribute the remaining funds to qualifying charter schools on a per pupil basis.

(8)(a) The Superintendent shall distribute an amount of funds to a newly opening charter school that is either:

(i) the base payment described in Subsection (7)(c); or

(ii) a per pupil amount based on the newly opened charter school's projected October 1 enrollment count.

(b)(i) The governing board of a newly opening charter school shall notify the Superintendent by March 1 preceding the school's first year of operation, which option under Subsection (8)(a) the school elects to receive.

(ii) If a school fails to notify the Superintendent as required under Subsection (b)(i), the school shall receive the base payment described in Subsection (6)(c) in the school's first year of operation.

(c) The Superintendent shall increase or decrease a newly opening charter school's first year distribution of funds in the school's second year to reflect the newly opening charter school's actual first year October 1 enrollment.

(9)(a) The Superintendent shall distribute an amount of funds to a newly opening satellite school equal to the base payment described in Subsection (6)(c).

(b) The Superintendent shall increase or decrease a newly opening satellite school's first year distribution of funds in the school's second year to reflect the newly opening satellite school's actual first year October 1 enrollment.

(10) The Superintendent shall deposit the unused balance in the Trust Distribution Account if:

(a) a school chooses not to apply for funds;

(b) a school does not meet the requirements for receiving funds; or

(c) a school does not open as scheduled.

#### **R277-477-6. School LAND Trust Program - Implementation of Plans and Required Reporting.**

(1) A school shall implement a plan as approved.

(2)(a) The principal shall submit a plan amendment authorized by Subsection 53G-7-1206(4)(d)(iii) through the School LAND Trust website for approval, including the date the council approved the amendment and the number of votes for, against, and absent.

(b) The approving entity shall:

(i) consider the amendment for approval;

(ii) approve an amendment before the school uses funds according to the amendment; and

(iii) notify the Superintendent an amendment is ready for review.

(c) The Superintendent shall review an amendment for compliance with statute and rule before the school uses funds according to the amendment.

(3)(a) A school shall provide an explanation for any carry-over that exceeds one-tenth of the school's allocation in a given year in the School LAND Trust Plan or final report.

(b) The Superintendent shall recommend a district or school with a consistently large carry-over balance over multiple years for corrective action for not making adequate and appropriate progress on an approved plan.

(c) The Superintendent may take corrective action to remedy excessive carry-over balances consistent with Rule R277-114.

(4) By approving a plan on the School LAND Trust website, the approving entity affirms that:

(a) the entity has reviewed the plan; and

(b) the plan meets the requirements of statute and rule.

(5)(a) A district or charter school business official shall enter prior year audited expenditures of School LAND Trust funds through UPEFS consistent with UPEFS requirements and timelines.

(b) The expenditure data shall appear in the final report submitted online by a principal, as required by Subsection 53G-7-1206(5)(b).

(6) A principal shall submit a final report on the School LAND Trust website annually before a School LAND Trust plan for the coming school year is submitted.

(7) An approving entity shall ensure that a final report includes clear explanations of plan implementation and expenditures and meets the confidentiality requirements of Rule R277-487 prior to March 1 to allow the review required by Section R277-477-7.

(8) An LEA shall provide an annual report to its governing board on the implementation of each school's prior year School LAND Trust plans by March 1 annually.

#### **R277-477-7. Compliance Review.**

~~[(1)(a) The Superintendent shall review a sample of school final reports for consistency with the approved school plan.~~

~~[(b) The Superintendent shall create a list of all schools in the sample whose final reports indicate that funds from the School LAND Trust program were expended inconsistent with the statute, rule, or the school's approved plan.~~

~~[(c) The Superintendent shall annually report a school described in Subsection (1)(b) to the school district contact person, district superintendent, and president of the local board of education or charter board and charter approving entity, as applicable.]~~

~~[(2)](1)~~ The Superintendent may visit a school receiving funds from the School LAND Trust program to discuss the program, receive information and suggestions, provide training, and answer questions.

~~[(3)](2)(a)~~ The Superintendent shall supervise annual compliance reviews to review expenditure of funds consistent with the approved plan, final report, applicable amendments, allowable expenses, and the law.

(b) The Superintendent shall annually provide a written report to the Board Finance Committee on compliance review findings and other compliance issues.

#### **R277-477-8. Superintendent Responsibilities.**

The Superintendent shall:

(1) represent the Board on the Land Trusts Protection and Advocacy Committee in accordance with Section 53D-2-202;

(2) review and approve a charter school plan on behalf of the State Charter School Board;

(3) provide notice as necessary to the State Charter School Board of changes required of charter schools for compliance with statute and rule;

(4) review and approve a plan submitted by the USDB Advisory Council as necessary;

(5) prepare the annual distribution of funds to implement the School LAND Trust program pursuant to Section 53F-2-404;

## NOTICES OF PROPOSED RULES

(6) provide training to entities involved with the School LAND Trust program consistent with Subsection 53G-7-1206(8); and

(7) implement corrective action, if appropriate, consistent with Rule R277-114 if an LEA or its council fails to comply with this rule.

**KEY: schools, trust lands funds, school community councils**

**Date of Last Change:** ~~February 8, 2023~~ **2024**

**Notice of Continuation:** November 5, 2021

**Authorizing, and Implemented or Interpreted Law:** Art X Sec 3; 53E-3-401; 53F-2-404

### NOTICE OF PROPOSED RULE

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R277-554</b>	<b>Filing ID:</b> <b>56195</b>
--------------------------------	-----------------	-----------------------------------

### Agency Information

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

### General Information

<b>2. Rule or section catchline:</b>
R277-554. State Charter School Board Grants and Mentoring Program
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being amended to clarify eligible uses for charter implementation grant funds.
<b>4. Summary of the new rule or change:</b>
The amendments clarify the eligibility requirements for new, large, and small expansion; or satellite charter school start-up and implementation grants.

### 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 changes do not add staff time or resources for the Utah State Board of Education (USBE) or the State Charter School Board staff.

##### B) Local governments:

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

Charter Local Education Agencies (LEAs) who choose to expand or create satellites may now apply for the start-up and implementation grants. There are no changes for districts or existing charter LEAs who are not expanding. There are no additional costs for any LEA.

##### 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 LEAs, USBE, and the State Charter School Board.

##### 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, USBE, and the State Charter School Board.

**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 for the State Charter School Board or USBE in expanding the eligibility criteria for the existing grants. There are no costs to any LEA.

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

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

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

The 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	Section 53G-5-205
-------------------------	-------------------	----------------------

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	11/15/2023
---	---	--------------	------------

**R277. Education, Administration.****R277-554. State Charter School Board Grants and Mentoring Program.****R277-554-1. 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) Title 53G, Chapter 5, Charter Schools, which allows the Board to make rules governing aspects of operations of charter schools; and

(d) Section 53F-2-705, which requires the Board to make rules regarding start-up and implementation grants and a mentoring program.

(2) The purpose of this rule is to establish rules for the State Charter School Board to operate:

(a) a start-up and implementation grant for charter schools; and

(b) a mentoring program for charter schools.

**R277-554-2. Charter School Start-up and Implementation Grants.**

(1) A charter school that desires to receive State Charter School Board start-up and implementation grant funds shall comply with the requirements of this section.

## NOTICES OF PROPOSED RULES

(2) To receive a State Charter School Board start-up or implementation grant, a charter school may be eligible if the charter school:

- (a) meets the requirements of Section 53G-5-404;
- (b) has a finalized charter agreement with the school's authorizer;
- (c) for a new, large and small expansions, or satellite school, submits an application for the grant within six months of approval by the school's authorizer; and
- (d) demonstrates a plan to use the funds within the next two full school years.

(3) New, large and small expansions, and satellite schools may be eligible for start-up and implementation grant funds, and receive priority in funding or grant applications.

~~[(4) Only schools that have not received state start-up or implementation grant funds in prior years are eligible.]~~

(4) In alignment with Section 53F-2-705, a charter school may be eligible for start-up and implementation grant funds if the school meets any of the following conditions:

- (a) implementing a new curriculum;
- (b) implementing a new program; or
- (c) implementing an innovative practice not funded by the Innovative Sandbox funding as described in Rule R277-919.

(5) The State Charter School Board shall determine amounts and conditions for distribution of state start-up or implementation grant funds.

(6) Grant funds may only be used for allowable expenditures as established by the State Charter School Board annual application form.

(7) Grant recipients shall participate in monitoring activities and shall provide monitoring information to the Superintendent, as directed.

(8)(a) A charter school shall repay grant funds to the State Charter School Board if recipients change to non-charter status within ten years of receiving grant funds.

(b) The State Charter School Board may grant an exception to the requirements of Subsection ~~[(9)]~~(8)(a) for a school that converts status, due to either federal or state law requirements, for academic purposes.

### **R277-554-3. Charter School Mentoring Program.**

(1) The State Charter School Board shall identify critical mentoring needs of charter schools and, through an appropriate procurement process, allocate mentoring funds to one or more qualified individuals or organizations to meet identified needs.

(2) Mentoring program participants shall provide information to the State Charter School Board as requested.

(3) A participating mentor shall submit an annual program report to the State Charter School Board.

(4) The State Charter School Board shall evaluate the mentoring program annually.

**KEY: charter schools, startup, implementation, mentoring**

**Date of Last Change: ~~[October 11, 2023]~~ 2024**

**Notice of Continuation: August 15, 2023**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53G-5-205**

## **NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R277-625</b>	<b>Filing ID:</b> <b>56196</b>
--------------------------------	-----------------	-----------------------------------

### **Agency Information**

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state and zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
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:**

R277-625. Mental Health Screeners

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

This rule is being amended to clarify the approval process for mental health screeners.

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

The amendments specify that a Local Education Agencies (LEAs) must require 'one or more' relevant staff, who will be administering a mental health screener, to attend an annual mental health screener training.

### **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. This change only impacts LEAs administering a mental health screener.

##### **B) Local governments:**

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

LEAs choosing to administer mental health screeners now have clarity that relevant staff means one or more staff. There are no quantifiable costs associated with this change.

**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 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.

**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 for LEAs, only added flexibility in deciding at least one "or more" staff should attend a mental health screener training annually.

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

**Regulatory Impact Table**

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

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

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

The 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)	Section 53F-2-522
----------------------	-------------------------	-------------------

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

**9. This rule change MAY become effective on:**

01/10/2024  
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.



**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	11/15/2023
---	---	--------------	------------

**R277. Education, Administration.****R277-625. Mental Health Screeners.****R277-625-1. 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) Section 53F-2-522 which directs the board to make rules regarding the selection of a mental health screener and financial aid for qualifying parents.
- (2) The purpose of this rule is to:
  - (a) provide the approval process for a mental health screener chosen by an LEA; and
  - (b) establish the approval and distribution of funds for a qualifying parent to receive financial assistance for related mental health services.

**R277-625-2. Definitions.**

- (1) "Division" means the same as the term is defined in Section 53F-2-522.
- (2) "Mental health" means a person's emotional, psychological, and social well-being, which can affect how a person thinks, feels, and acts, including how a person handles stress, relates to others, and makes healthy choices.
- (3) "Mental health screener" or "screener" means a systematic tool that:
  - (a) identifies if a student is experiencing, or is at risk of experiencing, issues related to the student's mental health;
  - (b) is used for early identification of the onset of mental health conditions, enabling the mental health conditions to be potentially addressed; and
  - (c) is not:
    - (i) a diagnostic tool; or
    - (ii) a system or process used by a student's teacher to observe behavior for targeted learning interventions.
- (4) "Mental health services" means the same as the term is defined in Subsection R523-1-3(3).
- (5) "Qualifies for financial assistance" means a qualifying parent that has a student receiving educational services through an LEA who:
  - (a) receives free or reduced lunch; or
  - (b) as recommended by the local mental health authority, demonstrates need including being:
    - (i) uninsured;
    - (ii) underinsured;
    - (iii) ineligible for Medicaid to cover part or all of any recommended mental health treatments; or
    - (iv) demonstrates a high need for interventions based upon results of the LEA's mental health screener.
- (6) "Qualifying parent" means the same as the term is defined in Subsection 53F-2-522(1)(d).
- (7) "Relevant services" means mental health services provided to a student that are directly related to mental health needs identified by a student's mental health screening.

**R277-625-3. Approval of Mental Health Screeners.**

- (1)(a) The Superintendent, in consultation with the Division, shall publish annually a list of pre-approved mental health screeners to the Board's website.
- (b) the published pre-approved list shall include:
  - (i) the name or brand of the mental health screener including a link to the screener's website;
  - (ii) the recommended ages for the mental health screener;
  - (iii) any limitations of the mental health screener including the typical level of false positives;
  - (iv) the mental health conditions the mental health screener can detect; and
  - (v) the scientific data or research used to verify a screener is evidence based.
- (2) The Board shall approve:
  - (a) the pre-approved mental health screener list; and
  - (b) the mental health conditions for which a screener can be used.
- (3) All pre-approved mental health screeners shall comply with the requirements as described in Title 53E, Chapter 9, Student Privacy and Data Protection, and the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g.
- (4) An LEA governing board shall notify the Superintendent whether the LEA will be a participating LEA or non-participating LEA, on a form provided by the Superintendent, in compliance with the requirements in Section 53F-2-522.
- (5) If the LEA chooses to apply for use of a mental health screener that is not on the pre-approved list, the LEA shall submit an application in a form prescribed by the Superintendent specifying:
  - (a) the mental health screener proposed for use by the LEA;
  - (b) the reason for choosing the mental health screener over a screener from the pre-approved list;
  - (c) the approved mental health conditions the mental health screener measures;
  - (d) how the mental health screener complies with all state and federal data privacy laws; and
  - (e) the scientific data or research demonstrating the mental health screener is evidence based and meets industry standards;
  - (f) why the mental health screener is age appropriate for each grade the screener is administered; and
  - (g) why the mental health screener is an effective tool for identifying whether a student has a mental health condition that requires intervention.
- (6) The Superintendent shall review the application in consultation with the Division and approve or deny the application within 30 days of receipt.
- (7) If the application is approved, the Superintendent shall submit the approved application to the Board for final approval.
- (8) Subject to legislative appropriation, the Superintendent shall annually determine a maximum reimbursement amount an LEA may receive for use of a mental health screener.
- (9) An LEA may request a reimbursement from the Superintendent in writing in an amount not to exceed the amount described in Subsection (8).
- (10)(a) An LEA shall require one or more relevant staff, who will be administering a mental health screener, to attend an annual mental health screener training provided by the Superintendent in collaboration with the Division;
- (b) the training described in Subsection (10)(a) shall provide an LEA with information needed for appropriate parental consent including:

- (i) consent shall be obtained:
- (A) within eight weeks before administration of the mental health screener; and
- (B) in accordance with Subsection 53E-9-203(4);
- (ii) the consent form shall be provided separately from other consent forms given to a parent pursuant to other state or federal laws;
- (iii) additional variables that might influence a screener's results; and
- (iv) a statement that:
  - (A) the mental health screener is optional;
  - (B) a screener is not a diagnostic tool;
  - (C) a parent has the right to seek outside resources or opinions; and
  - (D) specifies which board approved mental health conditions the mental health screener measures.
- (11) An LEA may not administer a mental health screener if the LEA has not attended the annual mental health screener training described in Subsection (10).
- (12) An LEA shall report annually to the Superintendent aggregate data regarding the types of LEA provided mental health interventions, referrals, or other actions taken based on screener results.

#### **R277-625-4. Data Privacy.**

- (1)(a) An LEA shall ensure all data collected or stored by a mental health screener complies with all state and federal data privacy laws and requirements, including those described in Subsection R277-625-3(3).
- (b) notwithstanding Subsection (1)(a), an LEA shall provide a parent with a list of all parties that may receive any data related to a student's mental health screener before the parent providing consent.
- (2) An LEA shall provide a parent with a list of all data potentially collected by the mental health screener before consenting to a student's mental health screening.
- (3) An LEA shall provide the parent of a screened student with:
  - (a) results as described in Subsection 53F-2-522(4)(d);
  - (b) applicable available resources; and
  - (c) who has access to the screener data.
- (4) If an LEA has received parental consent, an LEA may share data collected from the mental health screener with a school's multidisciplinary team.
- (5) An LEA shall retain and dispose of all data related to a student's mental health screener in accordance with an approved retention schedule not to exceed three years.

#### **R277-625-5. Financial Assistance for a Qualifying Parent.**

- (1) An LEA that has elected to participate as described in Subsection R277-625-3(4)(b), may receive reimbursement for relevant services obtained by a qualifying parent who receives financial assistance.
- (2) An LEA may not receive reimbursement for a qualifying parent if:
  - (a) the qualifying parent's student has begun to receive relevant services outside of the school setting before seeking reimbursement;
  - (b) the LEA can provide the relevant services, including relevant services provided by a third party through a contract with the LEA;

- (c) except for as provided in Subsection (d), the qualifying parent has received reimbursement for the same relevant services within one year from the date the relevant services began for the student; or
- (d) an LEA may provide reimbursement to a qualifying parent for the same relevant services within one year from the date relevant services began for the student if:
  - (i) the LEA has no other qualifying parents seeking reimbursement by April 1 and;
  - (ii) has reimbursement funds remaining.
- (3) An LEA may not receive reimbursements that exceed the LEA's award amount as described in Subsection (4).
- (4) An LEA that has elected to participate as described in Subsection R277-625-3(4)(b), shall receive a total award amount based on need as determined by the Superintendent.
- (5) The Superintendent shall determine a participating LEA's need by considering the LEA's ability to support and provide mental health services for a student including:
  - (a) the availability of mental health services within the LEA;
  - (b) the availability of mental health services within the LEA's surrounding community;
  - (c) the overall accessibility of mental health services for students within the LEA;
  - (d) the current student demand for mental health services within an LEA; and
  - (e) capacity of the LEA to meet existing and future student demands for mental health services.

#### **KEY: mental health screener, mental health, prevention**

**Date of Last Change:** ~~August 22, 2023~~ 2024

**Authorizing, and Implemented or Interpreted Law:** Art X Sec 3; 53E-3-401(4); 53F-2-522

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

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R277-700</b>	<b>Filing ID:</b> <b>56197</b>
--------------------------------	-----------------	-----------------------------------

#### **Agency Information**

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state and zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
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:**

R277-700. The Elementary and Secondary School General Core

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

This rule is being amended due to the passage of H.B. 475 in the 2023 General Session.

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

The amendments to Section R277-700-6 add a communication credit requirement that includes up to 0.5 credits emphasizing verbal communication completed in a course or school-sponsored activity.

The amendments to Section R277-700-7 add clarification to the student mastery and assessment of core standards requirements if student refrains from a portion of a course or to a course in its entirety, so that the rule language is consistent with Subsections 53G-6-803(7) and 53G-10-205(2).

**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 the state budget revenues or expenditures. The Utah State Board of Education (USBE) does not estimate any costs for Local Education Agencies (LEAs) outside the impacts captured in the fiscal note to H.B. 475 (2023).

**B) Local governments:**

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

USBE does not estimate any costs for LEAs outside the impacts captured in the fiscal note to H.B. 475 (2023).

**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.

USBE does not estimate any compliance costs for USBE or LEAs outside the fiscal note to H.B. 475 (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**

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



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

**Citation Information**

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Article X, Section 3	Subsection 53E-3-401(4)	Subsection 53E-3-501(1)(b)
Section 53E-4-202		

**Public Notice Information**

<b>8. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
<b>A) Comments will be accepted until:</b>	01/03/2024

<b>9. This rule change MAY become effective on:</b>	01/10/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	11/15/2023
---	---	--------------	------------

**R277. Education, Administration.****R277-700. The Elementary and Secondary School General Core.****R277-700-1. 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) Section 53E-3-501, which directs the Board to make rules regarding competency levels, graduation requirements, curriculum, and instruction requirements;
  - (d) Section 53E-4-202, which directs:
    - (i) the Board to establish Core Standards in consultation with LEA boards and superintendents; and
    - (ii) LEA boards to adopt local evidence-based curriculum and to design programs to help students master the General Core;

- (e) Title 53E, Chapter 4, Part 2, Career and College Readiness Mathematics Competency, which directs the Board to establish college and career mathematics competency standards; and
- (f) Section 53E-4-205, which requires the Board to provide rules related to a basic civics test.

- (2) The purpose of this rule is to specify the minimum Core Standards and General Core requirements for the public schools, and to establish responsibility for mastery of Core Standard requirements.

**R277-700-2. Definitions.**

For purposes of this rule:

- (1)(a) "Applied course" means a public school course or class that applies the concepts of a Core subject.
- (b) "Applied course" includes a course offered through Career and Technical Education or through other areas of the curriculum.
- (2) "Arts" means the visual arts, music, dance, theatre, and media arts.
- (3) "Assessment" means a summative assessment for:
  - (a) English language arts grades 3 through 10;
  - (b) mathematics grades 3 through 10, and Secondary I, II, and III; or
  - (c) science grades 4 through 10.
- (4) "Career and Technical Education (CTE)" means an organized educational program in secondary schools (grades 6-12) or courses, which teach current industry-specific skills and knowledge that prepares students for employment, and for additional postsecondary preparation leading to employment.
- (5) "Core Standard" means a statement of what a student enrolled in a public school is expected to know and be able to do at a specific grade level or following completion of an identified course.
- (6) "Core subject" means a course for which there is a declared set of Core Standards as approved by the Board.
- (7) "Elementary school" for purposes of this rule means a school that serves grades K-6 in whatever kind of school the grade levels exist.
- (8) "General Core" means the courses, content, instructional elements, materials, resources and pedagogy that are used to teach the Core Standards, including the ideas, knowledge, practice and skills that support the Core Standards.
- (9) "High school" for purposes of this rule means a school that serves grades 9-12 in whatever kind of school the grade levels exist.
- (10) "LEA" or "local education agency" includes the Utah Schools for the Deaf and the Blind.
- (11) "Middle school" for purposes of this rule means a school that serves grades 7-8 in whatever kind of school the grade levels exist.
- (12) "Junior High school" means a school that serves grades 7-9 in whatever kind of school the grade levels exist.
- (13) "Proficiency in keyboarding" means a student's ability to key by touch.
- (14) "Summative adaptive assessment" means an assessment that:
  - (a) is administered upon completion of instruction to assess a student's achievement;
  - (b) is administered online under the direct supervision of a licensed educator;
  - (c) is designed to identify student achievement on the Core Standards for the respective grade and course; and
  - (d) measures the full range of student ability by adapting to each student's responses, selecting more difficult questions when

a student answers correctly and less difficult questions when a student answers incorrectly.

**R277-700-3. General Core and Core Standards.**

(1) The Board establishes minimum course description standards for each course in the required General Core.

(2)(a) The Superintendent shall develop, in cooperation with LEAs, course descriptions for required and elective courses.

(b) The Superintendent shall provide parents and the general public an opportunity to participate in the development process of the course descriptions described in Subsection (2)(a).

(3)(a) The Superintendent shall ensure that the courses described in Subsection (2):

(i) contain mastery criteria for the courses; and

(ii) stress mastery of the course material, Core Standards, and life skills consistent with the General Core.

(b) The Superintendent shall place a greater emphasis on a student's mastery of course material rather than completion of predetermined time allotments for courses.

(4) An LEA board shall administer the General Core and comply with student assessment procedures consistent with state law.

(5) An LEA shall use evidence-based best practices, technology, and other instructional media to increase the relevance and quality of instruction.

**R277-700-4. Elementary Education Requirements.**

(1) The Core Standards and a General Core for elementary school students in grades K-6 are described in this section.

(2) The following are the Elementary School Education Core Subject Requirements:

(a) English Language Arts;

(b) Mathematics;

(c) Science;

(d) Social Studies;

(e) Arts:

(i) Visual Arts;

(ii) Music;

(iii) Dance; or

(iv) Theatre;

(f) Health Education;

(g) Physical Education;

(h) Educational Technology, including keyboarding;

(i) Library Media skills, integrated into the core subject

areas and

(j) Civics and character education, integrated into the core subject areas.

(3) An LEA board shall provide access to the General Core to all students within the LEA.

(4) An LEA board is responsible for student mastery of the Core Standards.

(5) An LEA shall implement formative assessment practices on a regular basis to ensure continual student progress.

(6) An LEA shall assess students for proficiency in keyboarding by grade 5 and report school level results to the Superintendent.

(7) An LEA shall use Board-approved summative adaptive assessments to assess student mastery of the following:

(a) language arts;

(b) mathematics;

(c) science; and

(d) effectiveness of written expression in grade 5.

(8) An LEA shall provide intervention to elementary students who do not achieve mastery of the subjects described in this section.

**R277-700-5. Middle School Education Requirements.**

(1) The Core Standards and a General Core for middle school students are described in this section.

(2) A student in grades 7-8 ~~shall~~<sup>is required to</sup> complete the courses described in Subsection (3) to be properly prepared for instruction in grades 9-12.

(3) The following are the Grades 7-8 General Core Requirements:

(a) Grade 7 Language Arts;

(b) Grade 8 Language Arts;

(c) Grade 7 Mathematics;

(d) Grade 8 Mathematics;

(e) Grade 7 Integrated Science;

(f) Grade 8 Integrated Science;

(g) United States History;

(h) Utah History; and

(i) at least one course in each of the following in grades 7

or 8:

(A) Health Education;

(B) College and Career Awareness;

(C) Digital Literacy;

(D) the Arts; and

(E) Physical Education.

(5) An LEA shall use Board-approved summative adaptive assessments to assess student mastery of the following:

(a) language arts;

(b) mathematics;

(c) science; and

(d) writing in grade 8.

(6) At the discretion of the LEA board, an LEA board may:

(a) offer additional elective courses;

(b) require a student to complete additional courses; or

(c) set minimum credit requirements.

(7) Upon parental or student request, an LEA may, with parental consent, substitute a course requirement described in Subsection (3) with a course, extracurricular activity, or experience that is:

(a) similar to the course requirement; or

(b) consistent with the student's plan for college and career readiness.

(8)(a) An LEA shall establish a policy governing the substitution of a course requirement as described in Subsection (7).

(b) An LEA's policy described in Subsection (8)(a) shall include a process for a parent to appeal an LEA's denial of a request for a substitution described in Subsection (7) to the LEA board or the LEA board designee.

**R277-700-6. High School Requirements.**

(1) The General Core and Core Standards for students in grades 9-12 are described in this section.

(2) A student in grades 9-12 ~~shall~~<sup>is required to</sup> earn a minimum of 24 units of credit through course completion or through competency assessment consistent with Rule R277-705 to graduate.

(3)(a) Through recording of credits in a student's transcripts for grades 9-12, in accordance with Subsections R277-726-5(5) and R277-726-5(6), for purposes of high school graduation, an LEA shall recognize high school credits earned before~~prior to~~

grade 9 through participation in the Statewide Online Education Program.

(b) For funding purposes, the LEA should record the participating student's intention to graduate early.

(c) An LEA may not use high school courses to replace middle school educational requirements.

(4) The General Core credit requirements from courses approved by the Board are described in Subsections (4) through (18).

(5) Language Arts (4.0 units of credit from the following):

(a) Grade 9 level (1.0 unit of credit);

(b) Grade 10 level (1.0 unit of credit);

(c) Grade 11 level (1.0 unit of credit); and

(d) Grade 12 level (1.0 Unit of credit) consisting of applied or advanced language arts credit from the list of Board-approved courses using the following criteria and consistent with the student's Plan for College and Career Readiness:

(i) courses are within the field~~[f]~~ or discipline of language arts with a significant portion of instruction aligned to language arts content, principles, knowledge, and skills;

(ii) courses provide instruction that leads to student understanding of the nature and disposition of language arts;

(iii) courses apply the fundamental concepts and skills of language arts;

(iv) courses provide developmentally appropriate content; and

(v) courses develop skills in reading, writing, listening, speaking, and presentation.

(e) A student may receive up to a half credit of the students four required Language Arts credits for a course or school sponsored activity emphasizing verbal communication during any year between grades 9 and 12.

(6) Mathematics (3.0 units of credit) shall be met minimally through successful completion of a combination of the foundation or foundation extended courses, Secondary Mathematics I, Secondary Mathematics II, and Secondary Mathematics III.

(7)(a) A student may opt out of Secondary Mathematics III if the student's parent submits a written request to the school.

(b) If a student's parent requests an opt out described in Subsection (6)(a), the student ~~shall~~~~is required to~~ complete a third math credit from the Board-approved mathematics list.

(8) A 7th or 8th grade student may earn credit for a mathematics foundation course before 9th grade, consistent with the student's Plan for College and Career Readiness if:

(a) the student is identified as gifted in mathematics in accordance with the procedures outlined in Rule R277-707;

(b) the student is enrolled at a middle school or junior high school and a high school;

(c) the student qualifies for promotion one or two grade levels above the student's age group and is placed in 9th grade; or

(d) the student takes the Board competency test in the summer ~~before~~~~prior to~~ 9th grade and earns high school graduation credit for the course.

(9) A student who successfully completes a mathematics foundation course before 9th grade ~~shall~~~~is required to~~ earn 3.0 units of additional mathematics credit by:

(a) taking the other mathematics foundation courses described in Subsection (5); and

(b) an additional course from the Board-approved mathematics list consistent with:

(i) the student's Plan for College and Career Readiness; and

(ii) the following criteria:

(A) courses are within the field~~[f]~~ or discipline of mathematics with a significant portion of instruction aligned to mathematics content, principles, knowledge, and skills;

(B) courses provide instruction that lead to student understanding of the nature and disposition of mathematics;

(C) courses apply the fundamental concepts and skills of mathematics;

(D) courses provide developmentally appropriate content; and

(E) courses include the Standards for Mathematical Practice as listed in the Utah secondary mathematics core.

(10) A student who successfully completes a Calculus course with a "C" grade or higher has completed mathematics graduation requirements, regardless of the number of mathematics credits earned.

(11) Science (3.0 units of credit):

(a) shall be met minimally through successful completion of 2.0 units of credit from two of the following five science foundation areas:

(i) Earth Science (1.0 units of credit);

(A) Earth Science;

(B) Advanced Placement Environmental Science; or

(C) International Baccalaureate Environmental Systems;

(ii) Biological Science (1.0 units of credit);

(A) Biology;

(B) Biology: Agricultural Science and Technology;

(C) Advanced Placement Biology;

(D) International Baccalaureate Biology; or

(E) Biology with Lab Concurrent Enrollment;

(iii) Chemistry (1.0 units of credit);

(A) Chemistry;

(B) Advanced Placement Chemistry;

(C) International Baccalaureate Chemistry; or

(D) Chemistry with Lab Concurrent Enrollment;

(iv) Physics (1.0 units of credit);

(A) Physics;

(B) Advanced Placement Physics (1, 2, C: Electricity and Magnetism, or C: Mechanics);

(C) International Baccalaureate Physics; or

(D) Physics with Lab Concurrent Enrollment; or

(v) Computer Science (1.0 units of credit):

(A) Advanced Placement Computer Science;

(B) Computer Science Principles; or

(C) Computer Programming 2; and

(b) one additional unit of credit from:

(i) the foundation courses described in Subsection~~(10)~~(a); or

(ii) the applied or advanced science list:

(A) determined by the LEA board; and

(B) approved by the Board using the following criteria and consistent with the student's Plan for College and Career Readiness:

(i) courses are within the field~~[f]~~ or discipline of science with a significant portion of instruction aligned to science content, principles, knowledge, and skills;

(ii) courses provide instruction that leads to student understanding of the nature and disposition of science;

(iii) courses apply the fundamental concepts and skills of science;

(iv) courses provide developmentally appropriate content;

(v) courses include the areas of physical, natural, or applied sciences; and

(vi) courses develop students' skills in scientific inquiry.

## NOTICES OF PROPOSED RULES

(12) Social Studies (3.0 units of credit) shall be met minimally through successful completion of:

- (a) 2.5 units of credit from the following courses:
  - (i) World Geography (0.5 units of credit);
  - (ii) World History (0.5 units of credit);
  - (iii) U.S. History (1.0 units of credit); and
  - (iv) U.S. Government and Citizenship (0.5 units of credit);
- (b) Social Studies (0.5 units of credit per LEA discretion);

and

(c) a basic civics test or alternate assessment described in Section R277-700-8.

(13) The Arts (1.5 units of credit from any of the following performance areas):

- (a) Visual Arts;
- (b) Music;
- (c) Dance;
- (d) Theatre; or
- (e) Media Arts.

(14) Health Education (0.5 units of credit).

(15)(a) Physical Education (1.5 units of credit from each of the following):

- (i) Participation Skills (0.5 units of credit);
- (ii) Fitness for Life (0.5 units of credit); and
- (iii) Individualized Lifetime Activities (0.5 units of credit);

(b) Notwithstanding Subsection (15)(a), a student may earn 0.5 units of credit per sport for team sport ~~or~~ or athletic participation up to a maximum of 1.0 units of credit with LEA approval to replace participation skills and individualized lifetime activities requirements.

(16) Career and Technical Education (1.0 units of credit from any of the following):

- (a) Agriculture, Food and Natural Resources;
- (b) Architecture and Construction;
- (c) Arts, Audio/Visual Technology and Communications;
- (d) Business, Finance and Marketing;
- (e) Computer Science and Information Technology;
- (f) Education and Training;
- (g) Engineering and Technology;
- (h) Health Science;
- (i) Hospitality and Tourism;
- (j) Human Services;
- (k) Law, Public Safety, Corrections and Security;
- (l) Manufacturing; or
- (m) Transportation, Distribution, and Logistics.

(17) Digital Studies (0.5 units of credit).

(18) Library Media Skills (integrated into the subject areas).

(19) General Financial Literacy (0.5 units of credit).

(20) Electives (5.5 units of credit).

(21) An LEA shall use Board-approved summative assessments to assess student mastery of the following subjects:

- (a) language arts through grade 11;
- (b) mathematics as defined in Subsection (6); and
- (c) science as defined in Subsection (11).

(22) An LEA board may require a student to earn credits for graduation that exceed the minimum Board requirements described in this rule.

(23) An LEA board may establish and offer additional elective course offerings at the discretion of the LEA board.

(24)(a) An LEA may modify a student's graduation requirements to meet the unique educational needs of a student if:

- (i) the student has a disability; and

(ii) the modifications to the student's graduation requirements are made through the student's individual IEP.

(b) An LEA shall document the nature and extent of a modification, substitution, or exemption made to a student's graduation requirements described in Subsection (22)(a) in the student's IEP.

(25) The Superintendent shall provide a list of approved courses meeting the requirements of this rule.

(26) An LEA may modify graduation requirements for an individual student to achieve an appropriate route to student success if the modification:

- (a) is consistent with:
  - (i) the student's IEP; or
  - (ii) SEOP ~~or~~ or Plan for College and Career Readiness;
- (b) is maintained in the student's file;
- (c) includes the parent's signature; and
- (d) maintains the integrity and rigor expected for high school graduation, as determined by the Board.

### **R277-700-7. Student Mastery and Assessment of Core Standards.**

(1) An LEA shall ensure students master the Core Standards at all levels.

(2) An LEA shall provide intervention for secondary students who do not achieve mastery in accordance with Section 53G-9-803.

(3) An LEA shall provide remedial assistance to students who are found to be deficient in basic skills through a statewide assessment in accordance with Subsection 53E-5-206(1).

(4) If a ~~parent objects to~~ student refrains from a portion of a course or to a course in its entirety under Section 53G-10-205, the parent ~~shall be responsible for~~ and school may work together to establish an alternate academic accommodation, which allows the student to demonstrate [the student's] mastery of Core Standards or alternate standard, consistent with Subsection 53G-6-803(7) and Subsection 53G-10-205(2)(b). [to the satisfaction of the school prior to the student's promotion to the next course or grade level.]

(5)(a) A student with a disability served by a special education program ~~shall [is required to]~~ demonstrate mastery of the Core Standards.

(b) If a student's disability precludes the student from successfully mastering the Core Standards, the student's IEP team, on a case-by-case basis, may provide the student an accommodation for, or modify the mastery demonstration to accommodate, the student's disability.

(6) A student may demonstrate competency to satisfy course requirements consistent with Section R277-705-3.

(7) LEAs are ultimately responsible for and shall comply with all assessment procedures, policies and ethics as described in Rule R277-404.

### **R277-700-8. Civics Education Initiative.**

(1) For purposes of this section:

(a) "Student" means:

(i) a public school student who graduates on or after January 1, 2016; or

(ii) a student enrolled in an adult education program who receives an adult education secondary diploma on or after January 1, 2016.

(b) "Basic civics test" means the same as that term is defined in Subsection 53E-4-205(1)(b).

- (2) Except as provided in Subsection (3), an LEA shall:
- (a) administer a basic civics test in accordance with the requirements of Section 53E-4-205; and
  - (b) require a student to pass the basic civics test as a condition of receiving:
    - (i) a high school diploma; or
    - (ii) an adult education secondary diploma.
- (3) An LEA may require a student to pass an alternate assessment if:
- (a)(i) the student has a disability; and
  - (ii) the alternate assessment is consistent with the student's IEP; or
  - (b) the student is within six months of intended graduation.
- (4) Except as provided in Subsection (5), the alternate assessment shall be given:
- (a) in the same manner as an exam given to an unnaturalized citizen; and
  - (b) in accordance with 8 C.F.R. Sec. 312.2.
- (5) An LEA may modify the manner of the administration of an alternate assessment for a student with a disability in accordance with the student's IEP.
- (6) If a student passes a basics civics test or an alternate assessment described in this section, an LEA shall report to the Superintendent that the student passed the basic civics test or alternate assessment.
- (7) If a student who passes a basic civics test or an alternate assessment transfers to another LEA, the LEA may not require the student to re-take the basic civics test or alternate assessment.

#### **R277-700-9. College and Career Readiness Mathematics Competency.**

- (1) For purposes of this section, "senior student with a special circumstance" means a student who:
- (a) is pursuing a college degree after graduation; and
  - (b) has not met one of criteria described in Subsection (2)(a) before the beginning of the student's senior year of high school.
- (2) Except as provided in Subsection (4), in addition to the graduation requirements described in Section R277-700-6, beginning with the 2016-17 school year, a student pursuing a college degree after graduation shall:
- (a) receive one of the following:
    - (i) a score of 3 or higher on an Advanced Placement (AP) calculus AB or BC exam;
    - (ii) a score of 3 or higher on an Advanced Placement (AP) statistics exam;
    - (iii) a score of 5 or higher on an International Baccalaureate (IB) higher level math exam;
    - (iv) a score of 50 or higher on a College Level Exam Program (CLEP) pre-calculus or calculus exam;
    - (v) a score of 26 or higher on the mathematics portion of the American College Test (ACT) exam;
    - (vi) a score of 640 or higher on the mathematics portion of the Scholastic Aptitude Test (SAT) exam; or
    - (vii) a "C" grade in a concurrent enrollment mathematics course that satisfies a state system of higher education quantitative literacy requirement; or
  - (b) if the student is a senior student with a special circumstance, take a full year mathematics course during the student's senior year of high school.
- (3) Except as provided in Subsection (4), in addition to the graduation requirements described in Section R277-700-6, beginning with the 2016-17 school year, a non-college and degree-seeking

student shall complete appropriate math competencies for the student's career goals as described in the student's Plan for College and Career Readiness.

(4) An LEA may modify a student's college or career readiness mathematics competency requirement under this section if:

- (a) the student has a disability; and
- (b) the modification to the student's college or career readiness mathematics competency requirement is made through the student's IEP.

(5)(a) An LEA shall report annually to the LEA's board the number of students within the LEA who:

- (i) meet the criteria described in Subsection (2)(a);
- (ii) take a full year of mathematics as described in Subsection (2)(b);
- (iii) meet appropriate math competencies as established in the students' career goals as described in Subsection (3); and
- (iv) meet the college or career readiness mathematics competency requirement established in the students' IEP as described in Subsection (4).

(b) An LEA shall provide the information described in Subsection (5)(a) to the Superintendent by October 1 of each year.

#### **KEY: graduation requirements, standards**

**Date of Last Change:** ~~2024~~~~August 12, 2024~~

**Notice of Continuation:** June 4, 2021

**Authorizing, and Implemented or Interpreted Law:** Art X Sec 3; 53E-3-501(1)(b); 53E-4-202; 53E-3-401(4)

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

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R277-704</b>	<b>Filing ID:</b> <b>56198</b>
--------------------------------	-----------------	-----------------------------------

#### **Agency Information**

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state and zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
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:**

R277-704. Financial and Economic Literacy: Integration into Core Curriculum

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

This rule is being amended to update a rule citation.

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

The amendment specifically changes one rule reference in Section R277-704-4, General Financial Literacy Teacher Endorsement, to Section R277-309-4.

**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.

There are no costs for the Utah State Board of Education (USBE) associated with updating the rule citation.

**B) Local governments:**

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

There are no costs for Local Education Agencies (LEAs) associated with the rule citation updated.

**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.

**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.

**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 added costs associated with updating the rule citation.

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

**Regulatory Impact Table**

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

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

The 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)	Section 53G-3-505
-------------------------	----------------------------	----------------------

**Public Notice Information**

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	11/15/2023
---	---	--------------	------------

**R277. Education, Administration.****R277-704. Financial and Economic Literacy: Integration into Core Curriculum.****R277-704-1. 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;

(c) Section 53E-3-505, which directs the Board to work with financial and economic experts and private and non-profit entities to develop and integrate financial and economic literacy and skills into the public school curriculum at all appropriate levels.

(2) The purpose of this rule is:

(a) to provide funds appropriated by the Legislature to develop and integrate financial and economic literacy concepts effectively into the core curriculum in various programs and at various grade levels;

(b) to provide for educator professional development using business and community expertise;

(c) to provide curriculum resources and assessments for financial and economic literacy;

(d) to provide simple and consistent messaging to students that becomes part of the core curriculum that reinforces the importance of financial and economic literacy for students and parents; and

(e) to help students and parents to locate and use school and community resources to improve financial and economic literacy among students and families.

**R277-704-2. Definitions.**

(1) "Content Specialist" means a licensed educator who provides instruction or specialized support for students and teachers in a school setting.

(2) "End of course assessment" means an online end of course assessment for students who take the general financial literacy course.

(3) "Endorsement" means the licensing document required by the board for teachers who teach general financial literacy.

(4) "Financial and economic literacy project" means a program or series of activities developed locally to implement financial and economic literacy education as described in Section 53E-3-505.

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

(6) "Professional development" means locally or Board-approved education-related training or activities that enhance an educator's background.

**R277-704-3. General Financial Literacy End of Course Assessment.**

(1) The Superintendent shall provide an LEA with an end of course assessment for general financial literacy which shall be:

(a) administered to every student who takes the general financial literacy course;

(b) aligned with general financial literacy revised core standards and objectives; and

(c) measured and analyzed at the school, district, and state-wide levels.

**R277-704-4. General Financial Literacy Teacher Endorsement.**

(1) A Board licensed educator who teaches general financial literacy ~~[is required to]~~ shall have licensing, endorsements, and other credentials equal to other content specialists as described in Section R277-~~[520]~~ 309-4.

(2) An educator's course work may be part of or in addition to course work and programs of study required for licensure by the Board consistent with Rule R277-303.

**R277-704-5. Financial and Economic Literacy Professional Development Opportunities.**

(1) The Superintendent shall provide professional development for all areas of financial and economic literacy utilizing the expertise of community and business groups.

(2) Professional development activities shall:

(a) provide information about financial and economic literacy including personal finance and economic responsibility;

(c) provide resources for teaching financial and economic literacy without promoting specific products or businesses; and

(d) work with the Superintendent to develop strategies for promoting financial and economic literacy.

**R277-704-6. Financial and Economic Literacy Taskforce.**

(1) The financial and economic literacy taskforce shall have the membership and general responsibilities outlined in Subsection 53E-3-505(4).

(2) In addition to the responsibilities outlined in Subsection 53E-3-505(4), the financial and economic literacy taskforce shall:

(a) analyze data provided by the Superintendent that includes:

(i) aggregated-school level proficiency results from the end of course assessment;

(ii) general enrollment data;

(iii) assessment of general financial literacy education quality; and

## NOTICES OF PROPOSED RULES

(iv) other relevant data to inform strategies for strengthening financial literacy proficiency; and  
(b) serve as the writing committee for the financial literacy course standards.

(3) ~~Prior to~~ Before final approval, the board shall fulfill all the requirements in Subsection 53E-4-202(4).

**KEY:** financial, economics, literacy

**Date of Last Change:** 2024~~October 8, 2019~~

**Notice of Continuation:** August 23, 2023

**Authorizing, and Implemented or Interpreted Law:** Art X Sec 3; 53G-3-505; 53E-3-401(4)

### NOTICE OF PROPOSED RULE

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R277-752</b>	<b>Filing ID:</b> <b>56199</b>
--------------------------------	-----------------	-----------------------------------

### Agency Information

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state and zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
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:

R277-752. Special Education Intensive Services Fund

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

Because the Intensive Services Fund is being eliminated, the amendments update requirements on spending carry forward amount and create a sunset date for this rule.

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

The amendments establish a specific sunset date on 06/30/2024, reduce the maximum permitted carry forward amount, and require that Local Education Agencies (LEAs) spend down their carry forward prior to Fiscal Year 2025.

### 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.

This largely affects LEAs with larger special education carryforward from prior fiscal years. The Utah State Board of Education (USBE) does not expect to see revenue returned to the Uniform School Fund and does not estimate a fiscal impact for the agency.

##### B) Local governments:

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

This rule change changes special education carryover from 20% to 10%. LEAs carrying over more than the 10% will need to expend the additional funds or they will be returned to the Uniform School Fund.

This may impact LEAs with larger carryover balances, though it will not impact their unrestricted net position. USBE is unable to quantify an expected amount to be returned to the Uniform School Fund as LEAs with more than 10% of special education carryover funds represent a very small percentage statewide. USBE expects most or all of the excess to be spent down appropriately.

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

This rule change is not expected to have fiscal impacts 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.

USBE may need to require LEAs with larger than a 10% special education carryforward balance to return funds to the Uniform School Fund. USBE believes all LEAs will spend down the amounts in excess of 10% by the June 2026 due date.

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

**Regulatory Impact Table**

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

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

The 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:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	11/15/2023
---	---	--------------	------------

**R277. Education, Administration.**

**R277-752. Special Education Intensive Services Fund.**

**R277-752-1. 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; and

(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 establish:

(a) an application process for the special education intensive services fund; and

(b) a formula to distribute the funds.

**R277-752-2. Definitions.**

(1) "Base reimbursement level" means an LEA's eligible costs up to \$10,000.

(2) "Budget" means the total expenditures reported on an LEA's Annual Program Report, "APR."

(3)(a) "Cost of setting" means the average cost of a student's educational environment, including:

(i) for a preschool student, the cost of services provided in an early childhood setting;

## NOTICES OF PROPOSED RULES

(ii) for a general education student, the cost of services provided in a general education classroom by special education personnel;

(iii) for resource students, the cost of services provided in a special education classroom by pull-out from the general education classroom;

(iv) for a student in a special class, the cost of services provided in a special education classroom for all or most of the day; and

(v) for a student in a special school, the cost of services provided in a separate school where all students have disabilities.

(b) "Cost of setting" is calculated by dividing the sum of costs for teachers and paraprofessionals in a given learning environment by the number of students in the same learning environment.

(4) "Local education agency" or "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(5) "Small LEA" means an LEA with enrollment of less than 5,000 students as shown on the most recent October 1 count.

(6) "Special education intensive services fund" means funding available to offset the costs of students whose educational program exceeds three times the state average per pupil expenditures.

### **R277-752-3. Application Process - Distribution Formula.**

(1) Beginning in the 20-21 school year, to receive an annual allocation from the special education intensive services fund, an LEA shall annually submit to the Superintendent an application by June 30, on a form approved by the Superintendent.

(2)(a) Except as provided in Subsection (2)(b), if the carry forward balances of an LEA's state special education programs exceed 20% of the LEA's special education budget as of June 30 of the prior fiscal year as reported in the LEA's Annual Program Report, the LEA may not submit an application for an annual allocation or reimbursement under the intensive services fund.

(b) An LEA with prior fiscal year carry forward balances that exceed 20% as described in Subsection (2)(a) may submit an application for an annual allocation or reimbursement under the intensive services fund if the LEA:

(i) demonstrate the LEA's state special education carry forward balances do not exceed 20% of the LEA's special education current year budget as of December 31; and

(ii) submits a balance sheet, signed by the LEA's superintendent or charter school director certifying the LEA's state special education fund balances as of December 31 immediately ~~[prior to]~~ before filing the application.

(3) From the special education intensive services fund, the Superintendent shall allocate up to the base reimbursement level to all qualifying LEAs.

(4)(a) Following the distribution described in Subsection (3), the Superintendent shall set aside funding for qualifying small LEAs proportional to the small LEAs' share of self-contained special education students.

(b) The Superintendent shall distribute the funds set aside in accordance with Subsection (4)(a) to small LEAs following the step down reimbursement formula described in Subsections (5)(a) through (d).

(5) Following the distribution described in Subsection (4), the Superintendent shall distribute any remaining funds to LEAs using a step down reimbursement process as described in this Subsection (5):

(a) The first step is to reimburse for the highest cost student equal to the difference between the highest cost student and the second highest cost student.

(b) The second step is to reimburse for the highest cost student and second highest cost student equal to the difference between the second highest cost student and the third highest cost student.

(c) The Superintendent shall continue the step down reimbursement process described in this subsection until funds are exhausted.

(d) In determining student cost under this Subsection (5), the Superintendent shall sum expenses from an LEA's application described in Subsection (1) less:

(i) the state average per pupil expenditures using data from the most recently published State Superintendent's Annual Report; and

(ii) reimbursements from private insurance or Medicaid.

(6)(a) The Superintendent shall maintain and publish a list of costs eligible for reimbursement under this rule along with the rate of reimbursement.

(b)(i) The Superintendent shall exclude cost of setting from reimbursement calculations.

(ii) Notwithstanding Subsection (6)(b)(ii), the Superintendent shall allow reimbursement of cost of setting to a small LEA.

(7)(a) If an LEA's carry forward exceeds the LEA's special education budget by an amount greater than 20% of the special education budget, the Superintendent shall recoup funds in excess of the 20% carry forward and make the funds available for distribution in the next year's intensive services fund program.

(b) Notwithstanding the requirements of Subsection (7)(a), an LEA has three years to spend carry forward fund balances incurred ~~[prior to]~~ before June 30, 2019.

### **R277-752-4. Rule Sunset and Carry Forward Funds.**

(1) The Superintendent will cease intensive services fund distributions after June 30, 2024.

(2) The Superintendent shall recoup any carry forward balance for special education funding in excess of 10% of an LEA's special education budget after June 30, 2026 and return the funds to the Uniform School Fund.

(3) Section R277-752-3 will sunset on June 30, 2024.

**KEY: special education, intensive services fund**

**Date of Last Change: 2024[March 11, 2021]**

**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:**

**R313-19-13**

**Filing ID:**  
**56174**

### **Agency Information**

**1. Department:** Environmental Quality

**Agency:** Waste Management and Radiation Control, Radiation

<b>Room number:</b>	Second Floor	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N.1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 144880	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4880	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tom Ball	385-454-5574	tball@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R313-19-13. Exemptions
<b>3. Purpose of the new rule or reason for the change:</b>
<p>The purpose of this amendment is to incorporate changes requested by the Nuclear Regulatory Commission (NRC) to ensure compatibility of Utah rules with the federal regulations.</p> <p>Additionally, the Division of Waste Management and Radiation Control, Radiation (Division) is correcting formatting and typographical errors that have been discovered in this rule.</p>
<b>4. Summary of the new rule or change:</b>
<p>Subsection R313-19-13(1)(c)(vii) addresses thorium or uranium contained in or on finished optical lenses and mirrors.</p> <p>The NRC commented that the word "mirror" had been left out of the text in Subsection R313-19-13(1)(c)(vii)(A) and needed to be added for consistency. The words "or mirror" have been added to this subsection after the word "lens" wherever it appears.</p> <p>The NRC commented that the word "uranium" had been left out of the text in Subsection R313-19-13(1)(c)(vii)(B) and needed to be added for consistency. The words "uranium or" have been added to this subsection before the word "thorium".</p> <p>The NRC commented that citations to 10 CFR 40.32 (b) and 10 CFR 40.32(c) were missing from Subsection R313-19-13(1)(c)(ix)(B). These citations have been added.</p>

**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 due to this amendment because it does not add any new or change any existing requirements.

B) Local governments:

There is no anticipated cost or savings to local governments due to this amendment because it does not add any new or change any existing requirements.

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

There is no anticipated cost or savings to small businesses due to this amendment because it does not add any new or change any existing requirements.

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 due to this amendment because it does not add any new or change any existing requirements.

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 persons other than small businesses, non-small businesses, state, or local government entities due to this amendment because it does not add any new or change any existing requirements.

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 due to this amendment because it does not add any new or change any existing requirements.

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

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0

## NOTICES OF PROPOSED RULES

Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Environmental Quality, Kimberly Shelley, 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 19-3-104	Section 19-6-104	
------------------	------------------	--

## Public Notice Information

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

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	01/15/2024
---	------------

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

## Agency Authorization Information

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Division Director	<b>Date:</b>	11/09/2023
---	--------------------------------------	--------------	------------

**R313. Environmental Quality, Waste Management and Radiation Control, Radiation.**
**R313-19. Requirements of General Applicability to Licensing of Radioactive Material.**
**R313-19-13. Exemptions.**

(1) Source material.

(a) A person is exempt from Rules R313-19, R313-21, and R313-22 to the extent that the person receives, possesses, uses, owns, or transfers source material in a chemical mixture, compound, solution or alloy ~~in which~~ that the source material is by weight less than 1/20 of one percent, ~~[(0.05%,-percent)]~~ of the mixture, compound, solution, or alloy.

(b) A person is exempt from Rules R313-19, R313-21, and R313-22 to the extent that the person receives, possesses, uses or transfers unrefined and unprocessed ore containing source material~~;~~ ~~provided,~~ ~~except~~ that, ~~except as~~ ~~unless~~ authorized in a specific license, ~~[such]the person [shall]may~~ not refine or process the ore.

(c) A person is exempt from the requirements in Rules R313-15, R313-18, R313-19, R313-21, and R313-22 to the extent that the person receives, possesses, uses or transfers:

(i) any quantities of thorium contained in:

(A) incandescent gas mantles~~;~~;

(B) vacuum tubes~~;~~;

(C) welding rods~~;~~;

(D) electric lamps for illuminating purposes~~;~~ ~~provided that, each lamp does~~ that do not contain more than 50 milligrams of thorium~~;~~;

(E) germicidal lamps, sunlamps, and lamps for outdoor or industrial lighting ~~[provided that each lamp does]~~that do not contain more than two grams of thorium~~;~~;

(F) rare earth metals and compounds, mixtures, and products containing not more than 0.25 percent by weight thorium, uranium, or any combination of these~~;~~;

(G) personnel neutron dosimeters ~~[provided that each dosimeter does]~~that do not contain more than 50 milligrams of thorium;

(ii) source material contained in the following products:

(A) glazed ceramic tableware manufactured before October 16, 2017, ~~[provided that]~~if the glaze ~~does not~~ contain~~[s not]~~ more than 20 percent by weight source material;

(B) piezoelectric ceramic containing not more than two percent by weight source material; or

(C) glassware containing not more than two percent by weight source material or, for glassware manufactured before October 16, 2017, not more than ten percent by weight source material, but not including commercially manufactured glass brick, pane glass, ceramic tile, or other glass or ceramic used in construction;

(iii) photographic film, negatives and prints containing uranium or thorium;

(iv) a finished product or part fabricated of, or containing, tungsten-thorium or magnesium-thorium alloys, ~~[provided that]~~if the thorium content of the alloy does not exceed four percent by weight and that this exemption ~~[shall]may~~ not be ~~[deemed]~~considered to authorize the chemical, physical, or metallurgical treatment or processing of the product or part;

(v) uranium contained in counterweights installed in aircraft, rockets, projectiles, and missiles, or stored or handled in connection with installation or removal of the counterweights, ~~provided that~~ if:

(A) each counterweight has been impressed with the following legend clearly legible through any plating or other covering: "DEPLETED URANIUM" ~~;~~ and

(B) each counterweight is durably and legibly labeled or marked with the identification of the manufacturer and the statement: "UNAUTHORIZED ALTERATIONS PROHIBITED" ~~;~~.

(C) The requirements specified in Subsections R313-19-13(1)(c)(v)(A) and R313-19-13(1)(c)(v)(B) need not be met by counterweights manufactured ~~prior to~~ before December 31, 1969, provided that ~~such~~ the counterweights were manufactured under a specific license issued by the Atomic Energy Commission and were impressed with the legend, "CAUTION - RADIOACTIVE MATERIAL - URANIUM", as previously required by the rules in effect on June 30, 1969 ~~and~~.

~~(E)~~ ~~(D)~~ ~~(f)~~ The exemption contained in Subsection R313-19-13(1)(c)(v) ~~shall~~ may not be ~~deemed~~ considered to authorize the chemical, physical, or metallurgical treatment or processing of any ~~such~~ counterweights other than repair or restoration of any plating or other covering;

(vi) natural or depleted uranium metal used as shielding constituting part of a shipping container ~~which~~ that is conspicuously and legibly impressed with the legend "CAUTION - RADIOACTIVE SHIELDING - URANIUM" and the uranium metal is encased in mild steel or equally fire resistant metal of minimum wall thickness of ~~one eighth~~ 1/8 inch, ~~(f)~~ 3.2 mm ~~;~~];

(vii) thorium or uranium contained in or on finished optical lenses and mirrors, ~~provided that~~ if each lens or mirror does not contain more than 10 percent by weight thorium or uranium or, for lenses manufactured before October 16, 2017, 30 percent by weight of thorium, and that this exemption shall not be ~~deemed~~ considered to authorize either:

(A) the shaping, grinding, or polishing of a lens ~~or mirror~~ or manufacturing processes other than the assembly of ~~such~~ a lens ~~or mirror~~ into optical systems and devices without alteration of the lens ~~or mirror~~ ~~;~~ or

(B) the receipt, possession, use, or transfer of uranium or thorium contained in contact lenses, or in spectacles, or in eyepieces in binoculars or other optical instruments;

(viii) thorium contained in a finished aircraft engine part containing nickel-thoria alloy, ~~provided that~~ if:

(A) the thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria, ~~(f)~~ thorium dioxide ~~;~~; and

(B) the thorium content in the nickel-thoria alloy does not exceed four percent by weight.

(ix) No person may initially transfer for sale or distribution a product containing source material to persons exempt under Subsection R313-19-13(1)(c), or equivalent regulations of an Agreement State, unless authorized by a license issued under 10 CFR 40.52 to initially transfer ~~such~~ the products for sale or distribution.

(A) A person initially distributing source material in products covered by the exemptions in ~~this~~ Subsection R313-19-13(1)(c) before (Utah effective date to be set by the Board), without specific authorization may continue ~~such~~ the distribution for one year beyond this date. Initial distribution may also be continued until the director takes final action on a pending application for license or license amendment to specifically authorize distribution submitted no later than one year beyond this date.

(B) A person authorized to manufacture, process, or produce these materials or products containing source material by an Agreement State, and a person who imports finished products or parts, for sale or distribution ~~must~~ shall be authorized by a license issued under 10 CFR 40.52 for distribution only and are exempt from the requirements of Rules R313-15 and R313-18 and Subsections R313-22-33(1)(a) and R313-22-33(1)(b) and 10 CFR 40.32 (b) and 10 CFR 40.32(c).

(d) The exemptions in Subsection R313-19-13(1)(c) do not authorize the manufacture of any of the products described.

(2) Radioactive material other than source material.

(a) Exempt concentrations.

(i) Except as provided in Subsection R313-19-13(2)(a)(iii) a person is exempt from Rules R313-19, R313-21 and R313-22 to the extent that the person receives, possesses, uses, transfers, owns or acquires products or materials containing:

(A) radioactive material introduced in concentrations not ~~in excess of~~ more than those listed in Section R313-19-70 ~~;~~ or

(B) diffuse sources of natural occurring radioactive materials containing less than 15 picocuries per gram radium-226.

(ii) A manufacturer, processor, or producer of a product or material is exempt from the requirements for a license set forth in Rules R313-19, R313-21, ~~and~~ R313-22, ~~and Rules~~ R313-32, R313-34, R313-36, and R313-38 to the extent that the person transfers:

(A) radioactive material contained in a product or material in concentrations not ~~in excess of~~ more than those specified in Section R313-19-70; and

(B) introduced into the product or material by a licensee holding a specific license issued by the U.S. Nuclear Regulatory Commission authorizing the introduction.

(C) The exemption in Subsections R313-19-13-2(2)(a)(ii)(A) and R313-19-13-2(2)(a)(ii)(B) does not apply to the transfer of radioactive material contained in any food, beverage, cosmetic, drug, or other commodity or product designed for ingestion or inhalation by, or application to, a human being.

(iii) A person may not introduce radioactive material into a product or material knowing or having reason to believe that it will be transferred to persons exempt under Subsection R313-19-13(2)(a)(i) or equivalent regulations of a Licensing State, the U.S. Nuclear Regulatory Commission or an Agreement State, except in accordance with a specific license issued pursuant to Subsection R313-22-75(1).

(b) Exempt quantities.

(i) Except as provided in Subsections R313-19-13(2)(b)(ii) through R313-19-13(2)(b)(iv) a person is exempt from ~~these rules~~ Title R313 to the extent that the person receives, possesses, uses, transfers, owns, or acquires radioactive material in individual quantities ~~which~~ that do not exceed the applicable quantity set forth in Section R313-19-71.

(ii) Subsection R313-19-13(2)(b) does not authorize the production, packaging or repackaging of radioactive material for purposes of commercial distribution, or the incorporation of radioactive material into products intended for commercial distribution.

(iii) A person may not, for purposes of commercial distribution, transfer radioactive material in the individual quantities set forth in Section R313-19-71, knowing or having reason to believe that the quantities of radioactive material will be transferred to persons exempt under Subsection R313-19-13(2)(b) or equivalent regulations of a Licensing State, the U.S. Nuclear Regulatory Commission or an Agreement State, except in accordance with a

## NOTICES OF PROPOSED RULES

specific license issued by the U.S. Nuclear Regulatory Commission, pursuant to 10 CFR Part 32 or by the ~~[D]~~director pursuant to Subsection R313-22-75(2), which license states that the radioactive material may be transferred by the licensee to persons exempt under Subsection R313-19-13(2)(b) or the equivalent regulations of a Licensing State, the U.S. Nuclear Regulatory Commission or an Agreement State.

(iv) A person who possesses radioactive material received or acquired ~~[prior to]~~before September 25, 1971, under the general license formerly provided in 10 CFR Part 31.4 or equivalent regulations of a ~~[S]~~state is exempt from the requirements for a license set forth in Rule R313-19 to the extent that the person possesses, uses, transfers or owns radioactive material. This exemption does not apply for diffuse sources of radium-226.

(v) No person may, for purposes of producing an increased radiation level, combine quantities of radioactive material covered by this exemption so that the aggregate quantity exceeds the limits set forth in Section R313-19-71, except for radioactive material combined within a device placed in use before May 3, 1999, or as otherwise provided by ~~[these rules]~~Title R313.

(c) Exempt items.

(i) Certain items containing radioactive material. Except for persons who apply radioactive material to, or persons who incorporate radioactive material into the following products, a person is exempt from ~~[these rules]~~Title R313 to the extent that person receives, possesses, uses, transfers, owns or acquires the following products:

(A) Timepieces or hands or dials containing not more than the following specified quantities of radioactive material and not exceeding the following specified levels of radiation:

(I) 25 millicuries,  $[\{925.0 \text{ MBq}\}]$ , of tritium per timepiece;

(II) five millicuries,  $[\{185.0 \text{ MBq}\}]$ , of tritium per hand;

(III) 15 millicuries,  $[\{555.0 \text{ MBq}\}]$ , of tritium per dial. Bezels ~~[when]~~if used shall be considered as part of the dial;

(IV) 100 microcuries,  $[\{3.7 \text{ MBq}\}]$ , of promethium-147 per watch or 200 microcuries,  $[\{7.4 \text{ MBq}\}]$ , of promethium-147 per any other timepiece;

(V) 20 microcuries,  $[\{0.74 \text{ MBq}\}]$ , of promethium-147 per watch hand or 40 microcuries,  $[\{1.48 \text{ MBq}\}]$ , of promethium-147 per other timepiece hand;

(VI) 60 microcuries,  $[\{2.22 \text{ MBq}\}]$ , of promethium-147 per watch dial or 120 microcuries,  $[\{4.44 \text{ MBq}\}]$ , of promethium-147 per other timepiece dial. Bezels ~~[when]~~if used shall be considered as part of the dial;

(VII) for wrist watches the radiation dose rate from hands and dials containing promethium-147 will not exceed, ~~[when]~~if measured through 50 milligrams per square centimeter of absorber, ~~for wrist watches,~~ 0.1 millirad,  $[\{1.0 \text{ uGy}\}]$ , per hour at ten centimeters from any surface;

(VIII) for pocket watches, the radiation dose rate from hands and dials containing promethium-147 will not exceed, if measured through 50 milligrams per square centimeter of absorber, 0.1 millirad,  $[\{1.0 \text{ uGy}\}]$ , per hour at one centimeter from any surface;

(IX) for other timepieces, the radiation dose rate from hands and dials containing promethium-147 will not exceed, if measured through 50 milligrams per square centimeter of absorber, 0.2 millirad,  $[\{2.0 \text{ uGy}\}]$ , per hour at ten centimeters from any surface; and

~~[(VIII)]~~ one microcurie,  $[\{37.0 \text{ kBq}\}]$ , of radium-226 per timepiece in timepieces manufactured ~~[prior to]~~before November 30, 2007.

(B)(I) Static elimination devices ~~[which]~~that contain, as sealed source or sources, radioactive material consisting of a total of not more than 18.5 MBq,  $[\{500 \text{ uCi}\}]$ , of polonium-210 per device.

(II) Ion generating tubes designed for ionization of air that contain, as a sealed source or sources, byproduct material consisting of a total of not more than 18.5 MBq,  $[\{500 \text{ uCi}\}]$ , of polonium-210 per device or of a total of not more than 1.85 GBq,  $[\{50 \text{ mCi}\}]$ , of hydrogen-3,  $[\{3 \text{ tritium}\}]$ , per device.

(III) ~~[Such as]~~Devices authorized before October 23, 2012 for use under the general license then provided in 10 CFR 31.3 (January 1, 2012) or equivalent regulations of the Commission or an Agreement State and manufactured, tested, and labeled by the manufacturer in accordance with the specifications contained in a specific license issued by the Commission or Agreement State.

(C) Precision balances containing not more than one millicurie,  $[\{37.0 \text{ MBq}\}]$ , of tritium per balance or not more than 0.5 millicurie,  $[\{18.5 \text{ MBq}\}]$ , of tritium per balance part manufactured before June 9, 2010.

(D) Marine compasses containing not more than 750 millicuries,  $[\{27.8 \text{ GBq}\}]$ , of tritium gas and other marine navigational instruments containing not more than 250 millicuries,  $[\{9.25 \text{ GBq}\}]$ , of tritium gas manufactured before June 9, 2010.

(E) Ionization chamber smoke detectors containing not more than 1 microcurie,  $[\{37 \text{ kBq}\}]$ , of americium-241 per detector in the form of a foil and designed to protect life and property from fires.

(F) Electron tubes, including spark gap tubes, power tubes, gas tubes including glow lamps, receiving tubes, microwave tubes, indicator tubes, pick-up tubes, radiation detection tubes, and other completely sealed tubes that are designed to conduct or control electrical currents~~;~~ provided that ~~[each tube does]~~do not contain more than one of the following specified quantities of radioactive material and the radiation dose rate from each electron tube containing radioactive material may not exceed one milli-r, 10.0 uGy, per hour at one centimeter from any surface if measured through seven milligrams per square centimeter of absorber:

(I) 150 millicuries,  $[\{5.55 \text{ GBq}\}]$ , of tritium per microwave receiver protector tube or ten millicuries,  $[\{370.0 \text{ MBq}\}]$ , of tritium per any other electron tube;

(II) one microcurie,  $[\{37.0 \text{ kBq}\}]$ , of cobalt-60;

(III) five microcuries,  $[\{185.0 \text{ kBq}\}]$ , of nickel-63;

(IV) 30 microcuries,  $[\{1.11 \text{ MBq}\}]$ , of krypton-85;

(V) five microcuries,  $[\{185.0 \text{ kBq}\}]$ , of cesium-137;

(VI) 30 microcuries,  $[\{1.11 \text{ MBq}\}]$ , of promethium-147;

(VII) one microcurie,  $[\{37.0 \text{ kBq}\}]$ , of radium-226;

~~and provided further, that the radiation dose rate from each electron tube containing radioactive material will not exceed one millirad (10.0 uGy) per hour at one centimeter from any surface when measured through seven milligrams per square centimeter of absorber].~~

(G) Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, one or more sources of radioactive material, ~~[provided that]~~if:

(I) each source contains no more than one exempt quantity set forth in Section R313-19-71; and

(II) each instrument contains no more than ten exempt quantities. For purposes of this requirement, an instrument's source~~[s]~~ may contain either one type or different types of radionuclides and an individual exempt quantity may be composed



of fractional parts of one or more of exempt quantities in Section R313-19-71, ~~[provided that]~~ the sum of the fractions ~~[shall]~~may not exceed unity~~[-]~~.

(III) ~~[f]~~[f]For purposes of Subsection R313-19-13(2)(c)(i)(G), 0.05 microcurie, ~~[1.85 kBq]~~[1.85 kBq], of americium-241 is considered an exempt quantity under Section R313-19-71.

(ii) Self-luminous products containing radioactive material.

(A) Except for persons who manufacture, process, produce, or initially transfer for sale or distribution self-luminous products containing tritium, krypton-85, or promethium-147, and except as provided in Subsection R313-19-13(2)(c)(ii)(C), any person is exempt from the ~~[regulations]~~rules in Rules R313-15, R313-19, R313-21, R313-22, R313-32, R313-34, R313-36, and R313-38 to the extent that ~~[such]~~a person receives, possesses, uses, transfers, owns, or acquires tritium, krypton-85, or promethium-147 in self-luminous products manufactured, processed, produced, or initially transferred in accordance with a specific license issued pursuant to 10 CFR 32.22 (2015), which license authorizes the initial transfer of the product for use.

(B) Any person who desires to manufacture, process, or produce, or initially transfer for sale or distribution self-luminous products containing tritium, krypton-85, or promethium-147 for use under Subsection R313-19-13(2)(c)(ii)(A), should apply for a license under 10 CFR 32.22 (2015) and for a certificate of registration in accordance with 10 CFR 32.210 (2015).

(C) The exemption in Subsection R313-19-13(2)(c)(ii)(A) does not apply to tritium, krypton-85, or promethium-147 used in products primarily for frivolous purposes or in toys or adornments.

(D) Radium-226. A person is exempt from ~~[these rules]~~Title R313, to the extent that ~~[such]~~a person receives, possesses, uses, transfers, or owns articles containing less than 0.1 microcurie, ~~[3.7 kBq]~~[3.7 kBq], of radium-226 ~~[which]~~that were acquired ~~[prior to]~~before the effective date of ~~[these rules]~~Title R313.

(iii) Gas and aerosol detectors containing radioactive material.

(A) Except for persons who manufacture, process, produce, or initially transfer for sale or distribution gas and aerosol detectors containing radioactive material, any person is exempt from the ~~[regulations]~~rules in ~~[parts]~~Rules R313-18, R313-15, R313-19, R313-21, R313-22, R313-32, R313-34, R313-36, and R313-38 to the extent that ~~[such]~~a person receives, possesses, uses, transfers, owns, or acquires byproduct material in gas and aerosol detectors designed to protect health, safety, or property, and manufactured, processed, produced, or initially transferred in accordance with a specific license issued under 10 CFR 32.26 (2015), which license authorizes the initial transfer of the product for use under this section. This exemption also covers gas and aerosol detectors manufactured or distributed before November 30, 2007, in accordance with a specific license issued by a ~~[S]~~[S]state under comparable provisions to 10 CFR 32.26 (2015) authorizing distribution to persons exempt from regulatory requirements.

(B) Any person who desires to manufacture, process, or produce gas and aerosol detectors containing byproduct material, or to initially transfer ~~[such]~~the products for use under Subsection R313-19-13[paragraph-](a)[of this section], should apply for a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to 10 CFR Part 32.26 (2015) and for a certificate of registration in accordance with Section R313-22-210 or equivalent regulations of an Agreement State.

(iv) Capsules containing carbon-14 urea for "in vivo" diagnostic use for humans.

(A) Except as provided in Subsection R313-19-13(2)(c)(iv)(B), any person is exempt from the requirements in Rules R313-19 and R313-32 ~~[provided]~~if that ~~[the-]~~person receives, possesses, uses, transfers, owns, or acquires capsules containing 37 kBq, ~~[1 uCi]~~[1 uCi], carbon-14 urea, ~~[allowing for nominal variation that may occur during the manufacturing process]~~each, for "in vivo" diagnostic use for humans.

(B) Any person who desires to use the capsules for research involving human subjects shall apply for and receive a specific license pursuant to Rule R313-32.

(C) Nothing in Subsection R313-19-13(2)(c)(iv) relieves persons from complying with applicable United States Food and Drug Administration, other ~~[F]~~[F]federal, and ~~[S]~~[S]state requirements governing receipt, administration, and use of drugs.

(v) Certain industrial devices.

(A) Except for persons who manufacture, process, produce, or initially transfer for sale or distribution industrial devices containing radioactive material designed and manufactured for ~~[the purpose of]~~detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing an ionized atmosphere, any person is exempt from the ~~[regulations]~~rules in ~~[parts]~~Rules R313-18, R313-15, R313-19, R313-21, R313-22, R313-32, R313-34, R313-36, and R313-38 to the extent that ~~[such]~~a person receives, possesses, uses, transfers, owns, or acquires radioactive material, in these certain detecting, measuring, gauging, or controlling devices and certain devices for producing an ionized atmosphere, and manufactured, processed, produced, or initially transferred in accordance with a specific license issued under 10 CFR 32.30 (2015), which license authorizes the initial transfer of the device for use under this rule. This exemption does not cover sources not incorporated into a device, such as calibration and reference sources.

(B) Any person who desires to manufacture, process, produce, or initially transfer for sale or distribution industrial devices containing byproduct material for use under Subsection R313-19-13(2)(c)(v)(A), should apply for a license under 10 CFR 32.30 (2015) and for a certificate of registration in accordance with Section R313-22-210.

(vi) With respect to Subsections R313-19-13(2)(b)(iii), R313-19-13(2)(c)(i), R313-19-13(2)(c)(iii) and R313-19-13(2)(c)(iv), the authority to transfer possession or control by the manufacturer, processor, or producer of equipment, devices, commodities, or other products containing byproduct material whose subsequent possession, use, transfer, and disposal by other persons is exempted from regulatory requirements may be ~~[obtained]~~received only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

**KEY: licenses, reciprocity, transportation, exemptions**

**Date of Last Change: 2024[November 14, 2022]**

**Notice of Continuation: April 8, 2021**

**Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-6-104**

#### NOTICE OF PROPOSED RULE

**TYPE OF FILING:** Amendment

**Rule or Section Number:**

**R313-21-21**

**Filing ID:**  
**56175**

**Agency Information**

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Waste Management and Radiation Control, Radiation	
<b>Room number:</b>	Second Floor	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 144880	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4880	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tom Ball	385-454-5574	tbball@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

**General Information**

<b>2. Rule or section catchline:</b>
R313-21-21. General Licenses--Source Material
<b>3. Purpose of the new rule or reason for the change:</b>
The purpose of this amendment is to incorporate changes requested by the Nuclear Regulatory Commission (NRC) to ensure compatibility of Utah rules with the federal regulations.  Additionally, the Division of Waste Management and Radiation Control, Radiation (Division) is correcting formatting and typographical errors that have been discovered in this rule.
<b>4. Summary of the new rule or change:</b>
The NRC commented that references to certain Part 40 requirements were missing from the list of 10 CFR 40 parts that are incorporated by reference in Subsection R313-21-21(2)(c). The list of parts of 10 CFR 40 that are incorporated by reference in this subsection has been updated in accordance with the NRC comment.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There is no anticipated cost or savings to the state budget due to this amendment because it does not add any new or change any existing requirements.

**B) Local governments:**

There is no anticipated cost or savings to local governments due to this amendment because it does not add any new or change any existing requirements.

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

There is no anticipated cost or savings to small businesses due to this amendment because it does not add any new or change any existing requirements.

**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 due to this amendment because it does not add any new or change any existing requirements.

**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 persons other than small businesses, non-small businesses, state, or local government entities due to this amendment because it does not add any new or change any existing requirements.

**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 due to this amendment because it does not add any new or change any existing requirements.

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

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



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

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

The Executive Director of the Department of Environmental Quality, Kimberly Shelley, 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 19-3-104	Section 19-6-104
------------------	------------------

**Incorporations by Reference Information**

**7. Incorporations by Reference:**

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

<b>Official Title of Materials Incorporated (from title page)</b>	Title 10 -- Energy, Chapter I -- Nuclear Regulatory Commission, Part 40 -- Domestic Licensing of Source Material
<b>Publisher</b>	Office of the Federal Register National Archives and Records Administration
<b>Issue Date</b>	November 7, 2023

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	01/15/2024
---	------------

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Division Director	<b>Date:</b>	11/09/2023
---	--------------------------------------	--------------	------------

**R313. Environmental Quality, Waste Management and Radiation Control, Radiation.**

**R313-21. General Licenses.**

**R313-21-21. General Licenses--Source Material.**

(1) A general license is ~~hereby~~ issued authorizing commercial and industrial firms, research, educational and medical institutions, and state and local government agencies to receive, possess, use and transfer uranium and thorium, in their natural isotopic concentrations and in the form of depleted uranium, for research, development, educational, commercial, or operational purposes in the following forms and quantities:

(a) No more than 1.5 kg, ~~[3.3 lb]~~, of uranium and thorium in dispersible forms, for example, gaseous, liquid, or powder, ~~[etc.]~~ at any one time. Any material processed by the general licensee that alters the chemical or physical form of the material containing source material ~~[must]~~ shall be accounted for as a dispersible form. A person authorized to possess, use, and transfer source material under Subsection R313-21-21(1) may not receive more than a total of ~~[7]seven~~ kg, ~~[15.4 lb]~~, of uranium and thorium in any one calendar year. A person possessing source material ~~[in excess of]~~ over these limits as of October 16, 2017, may continue to possess up to ~~[7]seven~~ kg, ~~[15.4 lb]~~, of uranium and thorium at any one time for one year beyond this date, or until the ~~[D]~~ director takes final action on a pending application submitted on or before October 16, 2017, for a specific license for this material; and receive up to 70 kg, ~~[154 lb]~~, of uranium or thorium in any one calendar year until December 31, 2018, or until the ~~[D]~~ director takes final action on a pending application submitted on or before October 16, 2018, for a specific license for this material; and

(b) No more than a total of ~~[7]seven~~ kg, ~~[15.4 lb]~~, of uranium and thorium at any one time. A person authorized to possess, use, and transfer source material under Subsection R313-21-21(1) may not receive more than a total of 70 kg, ~~[154 lb]~~, of uranium and thorium in any one calendar year. A person may not alter the chemical or physical form of the source material possessed under Subsection R313-21-21(1) unless it is accounted for under the limits of Subsection R313-21-21(1)(a); or

(c) No more than ~~[7]seven~~ kg, ~~[15.4 lb]~~, of uranium, removed during the treatment of drinking water, at any one time. A person may not remove more than 70 kg, ~~[154 lb]~~, of uranium from drinking water during a calendar year under Subsection R313-21-21(1)(a); or

(d) No more than ~~[7]seven~~ kg, ~~[15.4 lb]~~, of uranium and thorium at laboratories ~~to determine~~ for the purpose of determining the concentration of uranium and thorium contained within the material being analyzed at any one time. A person authorized to possess, use, and transfer source material under Subsection R313-21-21(1) may not receive more than a total of 70 kg, ~~[154 lb]~~, of source material in any one calendar year.

(2) Any person who receives, possesses, uses, or transfers source material pursuant to the general license issued in Subsection R313-21-21(1):

(a) Is prohibited from administering source material, or the radiation therefrom, either externally or internally, to human beings except as may be authorized by the [D]director in a specific license.

(b) [Shall]May not abandon this source material. Source material may be disposed of as follows:

(i) A cumulative total of 0.5 kg, [1.1 lb], of source material in a solid, non-dispersible form may be transferred each calendar year, by a person authorized to receive, possess, use, and transfer source material under this general license to a person[s] receiving the material for permanent disposal. The recipient of source material transferred under [the provisions of] Subsection R313-21-21(2) is exempt from the requirements to [obtain]get a license under Rule R313-22 to the extent the source material is permanently disposed. This provision does not apply to any person who is in possession of source material under a specific license issued under Rules R313-19, and R313-22; or

(ii) In accordance with Section R313-15-1001.

(c) Is subject to [the provisions in] 10 CFR 40.2a through 10 CFR 40.41, 10 CFR 40.41(e) through 10 CFR 40.41(e), 10 CFR 40.46, 10 CFR 40.46, 10 CFR 40.51, 10 CFR 40.56, 10 CFR 40.60 through 10 CFR 40.63, 10 CFR 40.71 and 10 CFR 40.64(a) and (b) 81, which are incorporated by reference in Section R313-24-4, Section R313-12-3, Section R313-19-5, Section R313-19-34, Subsection R313-22-34(2), Section R313-19-41, Section R313-19-50, Section R313-15-1111, Sections R313-12-51 through R313-12-53, Section R313-19-61, and Rule R313-14, 10 CFR 40.41(d), 10 CFR 40.41(e)(1) and (e)(3), 10 CFR 40.51(b)(6), and 10 CFR 40.56].

(d) Shall respond to written requests from the [D]director to provide information relating to the general license within 30 calendar days of the date of the request, or other time specified in the request. If the person cannot provide the requested information within the allotted time, the person shall, within that [same]time period, request a longer period to supply the information by providing the [D]director a written justification using the method stated in Section R313-12-110.

(e) [Shall]May not export [such]the source material except in accordance with 10 CFR Part 110 (2017).

(3) Any person who receives, possesses, uses, or transfers source material in accordance with Subsection R313-21-21(1) shall conduct activities so as to minimize contamination of the facility and the environment. When activities involving [such]the source material are permanently [ceased]stopped at any site, if evidence of significant contamination is identified, the general licensee shall notify the [D]director using the method stated in Section R313-12-110 about [such]the contamination and may consult with the [D]director as to the appropriateness of sampling and restoration activities to ensure that any contamination or residual source material remaining at the site where source material was used under this general license is not likely to result in exposures that exceed the limits in Section R313-15-402.

(4) Any person who receives, possesses, uses, or transfers source material in accordance with the general license granted in Subsection R313-21-21(1) is exempt from [the provisions of] Rules R313-15 and R313-18 to the extent that [such]the receipt, possession, use, and transfer are within the terms of this general license, except that [such]the person shall comply with [the provisions of] Sections R313-15-402 and R313-15-1001 to the extent necessary to [meet the provisions of]comply with Subsections R313-21-21(2)(b) and R313-21-21(3). However, this exemption does not apply to any person who also holds a specific license issued under Rules R313-19 and R313-22.

(5) No person may initially transfer or distribute source material to a person[s] generally licensed under Subsection R313-21-21(1)(a) or R313-21-21(1)(b), or paragraphs (a)(1) or (a)(2) of 10 CFR 40.22 for a non-Agreement State, or equivalent regulations of an Agreement State, unless authorized by a specific license issued in accordance with [Subs]Section R313-22-54 or 10 CFR 40.54 for a non-Agreement State or equivalent provisions of an Agreement State. This prohibition does not apply to analytical laboratories returning processed samples to the client who initially provided the sample. Initial distribution of source material to a person[s] generally licensed by Subsection R313-21-21(1) before October 16, 2017, without specific authorization may continue for one year beyond this date. Distribution may also be continued until the [D]director takes final action on a pending application for license or license amendment to specifically authorize distribution submitted on or before October 16, 2018.

(6) A general license is [hereby]issued authorizing the receipt of title to source material without regard to quantity. This general license does not authorize a person to receive, possess, deliver, use, or transfer source material.

(7) Depleted uranium in industrial products and devices.

(a) A general license is [hereby]issued to receive, acquire, possess, use, or transfer, in accordance with [the provisions of] Subsections R313-21-21(7)(b), R313-21-21(7)(c), R313-21-21(7)(d), and R313-21-21(7)(e), depleted uranium contained in industrial products or devices [for the purpose of providing]to provide a concentrated mass in a small volume of the product or device.

(b) The general license in Subsection R313-21-21(7)(a) applies only to industrial products or devices [which]that have been manufactured or initially transferred, either in accordance with a specific license issued to the manufacturer of the products or devices pursuant to Subsection R313-22-75(11) or in accordance with a specific license issued to the manufacturer by the Nuclear Regulatory Commission, an Agreement State, or a Licensing State [which]that authorizes manufacture of the products or devices for distribution to a person[s] generally licensed by the Nuclear Regulatory Commission, an Agreement State, or a Licensing State.

(c)(i) A person[Persons] who receives, acquires, possesses, or uses depleted uranium pursuant to the general license established by Subsection R313-21-21(7)(a) shall file form DWMRC-12 "Registration Form-Use of Depleted Uranium Under General License," with the [D]director. The form shall be submitted within 30 days after the first receipt or acquisition of depleted uranium. The registrant shall furnish on form DWMRC-12 the following information and other information as may be required by that form:

(A) name and address of the registrant;

(B) a statement that the registrant has developed and will maintain procedures designed to establish physical control over the depleted uranium described in Subsection R313-21-21(7)(a) and designed to prevent transfer of [such]the depleted uranium in any form, including metal scrap, to a person[s] not authorized to receive the depleted uranium; and

(C) name and title, address, and telephone number of the individual [duly]authorized to act for and on behalf of the registrant in supervising the procedures identified in Subsection R313-21-21(7)(c)(i)(B).

(ii) The registrant possessing or using depleted uranium under the general license established by Subsection R313-21-21(7)(a) shall report in writing to the [D]director any changes in information previously furnished on form DWMRC-12 "Registration Form - Use of Depleted Uranium Under General License." The

report shall be submitted within 30 days after the effective date of the change.

(d) A person who receives, acquires, possesses, or uses depleted uranium pursuant to the general license established by Subsection R313-21-21(5)(a):

(i) ~~shall~~ may not introduce depleted uranium, in any form, into a chemical, physical, or metallurgical treatment or process, except a treatment or process for repair or restoration of any plating or other covering of the depleted uranium;

(ii) ~~shall~~ may not abandon depleted uranium;

(iii) shall transfer or dispose of depleted uranium only by transfer in accordance with ~~[the provisions of]~~ Section R313-19-41. In the case where the transferee receives the depleted uranium pursuant to the general license established by Subsection R313-21-21(7)(a), the transferor shall furnish the transferee a copy of Rule R313-21 and a copy of form DWMRC-12. In the case where the transferee receives the depleted uranium pursuant to a general license contained in the Nuclear Regulatory Commission's or Agreement State's regulation equivalent to Subsection R313-21-21(7)(a), the transferor shall furnish the transferee a copy of this rule and a copy of form DWMRC-12 accompanied by a note explaining that use of the product or device is regulated by the Nuclear Regulatory Commission or Agreement State under requirements substantially ~~[the same as]~~ equivalent to those in Rule R313-21;

(iv) within 30 days of any transfer, shall report in writing to the ~~[D]~~ director the name and address of the person receiving the depleted uranium pursuant to the transfer;

(v) ~~shall~~ may not export depleted uranium except in accordance with a license issued by the Nuclear Regulatory Commission pursuant to 10 CFR Part 110; and

(vi) shall pay annual fees pursuant to Rule R313-70.

(e) Any person receiving, acquiring, possessing, using, or transferring depleted uranium pursuant to the general license established by Subsection R313-21-21(7)(a) is exempt from the requirements of Rules R313-15 and R313-18 ~~[of these rules]~~ with respect to the depleted uranium covered by that general license.

**KEY: radioactive materials, general licenses, source materials**

**Date of Last Change:** 2024~~October 13, 2017~~

**Notice of Continuation:** October 19, 2021

**Authorizing, and Implemented or Interpreted Law:** 19-3-104; 19-6-104

#### NOTICE OF PROPOSED RULE

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R313-22-55</b>	<b>Filing ID:</b> <b>56176</b>
--------------------------------	-------------------	-----------------------------------

#### Agency Information

<b>1. Department:</b>	Environmental Quality
<b>Agency:</b>	Waste Management and Radiation Control, Radiation
<b>Room number:</b>	Second Floor
<b>Building:</b>	MASOB
<b>Street address:</b>	195 N 1950 W
<b>City, state and zip:</b>	Salt Lake City, UT 84116

<b>Mailing address:</b>	PO Box 144880	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4880	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tom Ball	385-454-5574	tball@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

#### General Information

##### 2. Rule or section catchline:

R313-22-55. Conditions of Specific Licenses to Initially Transfer Source Material for Use Under Section R313-21-21

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

The purpose of this amendment is to incorporate changes requested by the Nuclear Regulatory Commission (NRC) to ensure compatibility of Utah rules with the federal regulations.

Additionally, the Division of Waste Management and Radiation Control, Radiation (Division) is correcting formatting and typographical errors that have been discovered in this rule.

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

Reference to equivalent regulations of the NRC has been added to Subsection R313-22-55(1)(c)(i) as requested by the NRC.

The NRC commented that to be compatible with the federal regulations Subsection R313-22-55(1)(d)(i) must also require reports to be filed with the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555 for any transfers to non-Agreement States in addition to the Director of the Division of Waste Management and Radiation Control. This has been added to the subsection.

#### 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 due to this amendment because it does not add any new or change any existing requirements.

###### B) Local governments:

There is no anticipated cost or savings to local governments due to this amendment because it does not add any new or change any existing requirements.

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

There is no anticipated cost or savings to small businesses due to this amendment because it does not add any new or change any existing requirements.

**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 due to this amendment because it does not add any new or change any existing requirements.

**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 persons other than small businesses, non-small businesses, state, or local government entities due to this amendment because it does not add any new or change any existing requirements.

**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 due to this amendment because it does not add any new or change any existing requirements.

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

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

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

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

The Executive Director of the Department of Environmental Quality, Kimberly Shelley, 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 19-3-104	Section 19-6-104	
------------------	------------------	--

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/15/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Division Director	<b>Date:</b>	11/09/2023
---	--------------------------------------	--------------	------------

**R313. Environmental Quality, Waste Management and Radiation Control, Radiation.****R313-22. Specific Licenses.****R313-22-55. Conditions of Specific Licenses to Initially Transfer Source Material for Use Under Section R313-21-21.**

(1)(a) Each person licensed under Section R313-22-54 shall label the immediate container of each quantity of source material with the type of source material and quantity of material and the words, "radioactive material."

(b) Each person licensed under Section R313-22-54 shall ensure that the quantities and concentrations of source material are as labeled and indicated in any transfer records.

(c) Each person licensed under Section R313-22-54 shall provide the information specified in Subsections R313-22-55(1)(c)(i) and ~~R313-22-55(1)(c)(ii)~~ to each person to whom source material is transferred for use under Section R313-21-21 or 10 CFR 40.22 for non-Agreement States or equivalent provisions in Agreement State regulations. This information ~~must~~ shall be transferred before the source material is transferred for the first time in each calendar year to the particular recipient. The required information includes:

(i) A copy of Sections R313-21-21 and R313-19-41, or relevant equivalent regulations of the ~~NRC or of the~~ Agreement State.

(ii) Appropriate radiation safety precautions and instructions relating to handling, use, storage, and disposal of the material.

(d) Each person licensed under Section R313-22-54 shall report transfers as follows:

(i) File a report with the ~~[D]director and with the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555 for any transfers to non-Agreement States.~~ The report shall include the following information:

(A) The name, address, and license number of the person who transferred the source material;

(B) For each general licensee under Section R313-21-21 or 10 CFR 40.22 for non-Agreement States or equivalent Agreement State provisions to whom greater than 50 grams, ~~[<]0.11 pounds[>]~~, of source material has been transferred in a single calendar quarter, the name and address of the general licensee to whom source material is distributed; a responsible agent, by name or position or both and phone number, of the general licensee to whom the material was sent; and the type, physical form, and quantity of source material transferred; and

(C) The total quantity of each type and physical form of source material transferred in the reporting period to ~~any[all-such]~~ generally licensed recipients.

(ii) File a report with:

(A) Each responsible Agreement State agency that identifies ~~[all-persons]~~ each person, operating under provisions equivalent to 10 CFR 40.22 (2016), to whom greater than 50 grams, ~~[<]0.11 pounds[>]~~, of source material has been transferred within a single calendar quarter; or

(B) The U.S. Nuclear Regulatory Commission for non-Agreement States, that identifies ~~[all-persons]~~ each person, operating under 10 CFR 40.22 (2016), to whom greater than 50 grams, ~~[<]0.11 pounds[>]~~, of source material has been transferred within a single calendar quarter.

(C) The report shall include the following information specific to those transfers made to the Agreement State being reported to:

(I) The name, address, and license number of the person who transferred the source material; and

(II) The name and address of the general licensee to whom source material was distributed; a responsible agent, by name ~~[and]~~ or position or both and phone number, of the general licensee to whom the material was sent; and the type, physical form, and quantity of source material transferred~~[-]; and~~

(III) The total quantity of each type and physical form of source material transferred in the reporting period to ~~any[all-such]~~ generally licensed recipients within the Agreement State or non-Agreement State.

(iii) Submit each report by January 31 of each year covering ~~[all]~~ any transfers for the previous calendar year. If no transfers were made to a person[s] generally licensed under Section

R313-21-21 or 10 CFR 40.22, or equivalent Agreement State provisions during the current period, a report shall be submitted to the ~~[D]director~~ indicating so. If no transfers have been made to general licensees in a particular Agreement State or non-Agreement State during the reporting period, this information shall be reported to the responsible Agreement State agency or the U.S. Nuclear Regulatory Commission upon request of the agency or Commission.

(e) Each person licensed under Section R313-22-54 shall maintain ~~[all]~~ any information that supports the reports required by Section R313-22-55 concerning each transfer to a general licensee for a period of one year after the event is included in a report to the ~~[D]director~~.

**KEY:** specific licenses, decommissioning, broad scope, radioactive materials

**Date of Last Change:** ~~2024[August 9, 2019]~~

**Notice of Continuation:** April 8, 2021

**Authorizing, and Implemented or Interpreted Law:** 19-3-104; 19-6-104

#### NOTICE OF PROPOSED RULE

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R315-124</b>	<b>Filing ID:</b> <b>56178</b>
--------------------------------	-----------------	-----------------------------------

#### Agency Information

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Waste Management and Radiation Control, Waste Management	
<b>Room number:</b>	2nd Floor	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 144880	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4880	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tom Ball	385-454-5574	tball@utah.gov

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

#### General Information

**2. Rule or section catchline:**

R315-124. Procedures for Decisionmaking

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

This rule is being amended to require the Division of Waste Management and Radiation Control, Waste Management (Division) to follow the requirements of Rule R315-124 in addition to the requirements found in Rule R315-311 for



permit actions taken by the Director for nonhazardous, solid waste facilities.

The amendments also place clarifying language in the rule and provide the Director with the option to submit a request to modify, revoke, and reissue, or terminate a permit to public notice and public comment.

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

Rules R315-301 through R315-320 are being added to the list of rules in Section R315-124-1 indicating that Rule R315-124 applies to actions taken by the Director under the solid waste rules.

Citations to various solid waste program rules contained in Rules R315-301 through R315-320 have been added at appropriate locations throughout Rule R315-124 as necessary to connect or exempt the solid waste rules to the requirements of Rule R315-124.

Subsection R315-124-5(b) is being amended to give the Director the option to submit a request to modify, revoke and reissue, or terminate a permit to public notice and public comment. Language is also being added to clarify that the Director's decision to deny a request constitutes a permit order under Rule R305-7.

Subsection R315-124-5(c)(1) is amended to clarify that a decision to revoke and reissue a permit only applies to hazardous waste facility permits.

Subsection R315-124-5(c)(3) is being amended to include minor modifications defined in Subsection R315-311-2(1).

Subsection R315-124-5(d) is being amended to include Subsection R315-311-2(3) as one of the rules that allow the Director to terminate a permit.

Subsection R315-124-6(d) is being amended to clarify that some of these requirements apply only to hazardous waste facilities.

Subsection R315-124-10(a)(2) is being amended to clarify that unless the Director decides to submit a request to public notice, comment or hearing as allowed under the amended Subsection R315-124-5(b), no public notice is required if a request is denied.

Subsection R315-124-10(c)(2)(ii) is being amended so that newspaper notices are required for both hazardous waste facilities and non-hazardous solid waste facilities, but radio notice is only required for hazardous waste facilities.

Subsection R315-124-19(a)(1) is being amended to direct the reader to the proper rules for filing an appeal from a decision to terminate a permit.

Subsection R315-124-20(e) is being added to the rule to clarify that computations of time specified in Section R315-

124-20 do not supersede the computations of time found in Rule R305-7.

Subsection R315-124-31(a) and Subsection R315-124-32(a) are being amended to make it clear that Sections R315-124-31 and R315-124-32 are applicable to hazardous waste management units but not to nonhazardous solid waste management facilities.

#### **Fiscal Information**

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

###### **A) State budget:**

It is not anticipated that there will be any cost or savings to the state budget based on this amended rule because the rule does not add any new requirements for state agencies.

###### **B) Local governments:**

It is not anticipated that the amendment of this rule will result in any cost or savings to local governments because this rule addresses the actions to be taken by the Director of the Division and not by any local government agencies.

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

It is not anticipated that the amendment of this rule will result in any cost or savings to small businesses because this rule addresses the actions to be taken by the Director of the Division and not by any small businesses.

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

It is not anticipated that the amendment of this rule will result in any cost or savings to non-small businesses because this rule addresses the actions to be taken by the Director of the Division and not by any 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**):

It is not anticipated that the amendment of this rule will result in any cost or savings to persons other than small businesses, non-small businesses, state, or local governments because this rule addresses the actions to be taken by the Director of the Division and not by any persons other than small businesses, non-small businesses, state, or local governments.

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

It is not anticipated that the amendment of this rule will result in any new compliance costs for persons who must comply with this rule.

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

**Regulatory Impact Table**

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

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

The Executive Director of the Department of Environmental Quality, Kimberly Shelley, 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 19-6-104	Section 19-6-105	Section 19-6-108
------------------	------------------	------------------

**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:** 01/03/2024

**9. This rule change MAY become effective on:** 01/15/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Division Director	<b>Date:</b>	11/09/2023
---	--------------------------------------	--------------	------------

**R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.**

**R315-124. Procedures for Decisionmaking.**

**R315-124-1. Procedures for Decisionmaking -- Applicability.**

Unless otherwise stated ~~in~~, Rule R315-124 applies to any actions by the director taken under Rules R315-17, R315-101, R315-102, R315-260 through R315-266, R315-268, R315-270, ~~or~~ R315-273, or R315-301 through R315-320. ~~Rule R315-124 applies to all actions by the Director taken under the rules listed above.~~

**R315-124-3. Procedures for Decisionmaking -- Application for a Permit.**

(a)(1) Any person who requires a permit, for a hazardous or nonhazardous waste treatment, storage or disposal facility under Section 19-6-108 shall complete, sign, and submit to the ~~D~~director an application for each permit required under Section R315-270-1 or Rule R315-310. Applications are not required for permits by rule ~~under~~ Section R315-270-60 or Rule R315-318.

(2) The ~~D~~director is not required to begin the processing of a permit until the applicant has fully complied with the application requirements for that permit ~~See~~ as found in Sections R315-270-10, ~~and~~ R315-270-13, and Rule R315-310.

(3) Permit applications shall comply with the applicable signature and certification requirements of Section R315-270-11 or R315-310-2.

(b) Reserved.

(c) The ~~D~~director shall review for completeness every application for a permit. Upon completing the review, the ~~D~~director shall notify the applicant in writing whether the application is complete. If the application is incomplete, the ~~D~~director shall list the information necessary to make the application complete. ~~When~~ If the application is for an existing facility, the ~~D~~director shall specify in the notice of deficiency a date for submitting the necessary information. The ~~D~~director shall notify the applicant that the application is complete upon receiving this information. After the application is completed, the ~~D~~director may request additional information from an applicant to clarify, modify, or supplement previously submitted material. Requests for ~~such~~ additional information will not ~~render~~ make an application incomplete.

(d) If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement actions may be taken under applicable provisions of the Utah Solid and Hazardous Waste Act.

(e) If the [D]director decides that a site visit is necessary for any reason in conjunction with the processing of an application, the [D]director shall notify the applicant and a date shall be scheduled.

(f) The effective date of an application is the date [on which]that the [D]director notifies the applicant that the application is complete as provided in Subsection R315-124-3(c).

(g) For each permit application, the [D]director shall, no later than the effective date of the application, prepare and mail to the applicant a schedule [that specifies]of the target dates [by which]that the [D]director intends to:

- (1) [P]prepare a draft permit;
- (2) [G]give public notice;
- (3) [C]complete the public comment period, including any public hearing; and
- (4) [I]issue a final permit.

#### **R315-124-5. Procedures for Decisionmaking -- Modification, Revocation and Reissuance, or Termination of Permits.**

(a) Permits may be modified, revoked and reissued, or terminated either at the request of any interested person, including the permittee, or upon the [D]director's initiative. However, permits may only be modified, revoked and reissued, or terminated for the reasons specified in Sections R315-270-41, R315-270-43 or [43]Subsection R315-311-2(1). ~~[A]Each request[s] shall be in writing and shall contain facts or reasons supporting the request.~~

(b) If the [D]director decides the request to modify, revoke and reissue, or terminate a permit is not justified, the [D]director shall either send the requester a brief written response giving a reason for the decision~~[- Denials of requests for modification, revocation and reissuance, or termination are not subject]~~ or submit the request to public notice, comment, or hearings. ~~[Denials by t]~~The [D]director's decision to deny a request constitutes a permit order under Rule R305-7 and may be appealed by following the requirements of Sections R305-7-201 through R305-7-217.

(c)(1) If the [D]director tentatively decides to modify a nonhazardous waste or hazardous waste facility permit or revoke and reissue a hazardous waste facility permit under Section R315-270-41 or Subsection R315-270-42(c), the [D]director shall prepare a draft permit under Section R315-124-6 incorporating the proposed changes. The [D]director may request additional information and, in the case of a modified permit, may require the submission of an updated application. In the case of revoked and reissued permits the [D]director shall require the submission of a new application.

(2) In a permit modification under Section R315-124-5, only those conditions to be modified shall be reopened when a draft permit is prepared. ~~[A]The~~ other aspects of the existing permit shall remain in effect. ~~[When]~~If a permit is revoked and reissued under Section R315-124-5, the entire permit is reopened just as if the permit had expired and were being reissued. During any revocation and reissuance proceeding the permittee shall comply with ~~[all]~~the conditions of the existing permit until a new final permit is reissued.

(3) Classes 1 and 2 modifications as defined in Subsections R315-270-42(a)~~[-and]~~, R315-270-42(b), and minor modifications defined in Subsection R315-311-2(1) are not subject to the requirements of Section R315-124-5.

(d) If the [D]director tentatively decides to terminate a permit under Section R315-270-43 or Subsection R315-311-2(3) the

[D]director shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit ~~[which]that~~ follows the ~~[same]~~procedures ~~[as any]~~for a draft permit prepared under Section R315-124-6.

(e) ~~[A]Each~~ draft permit[s], including notices of intent to terminate, prepared under Section R315-124-5 shall be based on the administrative record as defined in Section R315-124-9.

#### **R315-124-6. Procedures for Decisionmaking -- Draft Permits.**

(a) Once an application is complete, the [D]director shall tentatively decide whether to prepare a draft permit or to deny the application.

(b) If the [D]director tentatively decides to deny the permit application, the [D]director shall issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit ~~[which]that~~ follows the ~~[same]~~procedures ~~[as any]~~for a draft permit prepared under Section R315-124-6. If the [D]director's final decision is that the tentative decision to deny the permit application was incorrect, the [D]director shall withdraw the notice of intent to deny and prepare a draft permit under Subsection R315-124-6(d).

(c) Reserved.

(d) If the [D]director decides to prepare a draft permit, the [D]director shall prepare a draft permit that contains the following information:

(1) ~~[A]each~~ condition[s] under Sections R315-270-30 and R315-270-32 for hazardous waste facilities;

(2) ~~[A]each~~ compliance schedule[s] under Section R315-270-33 for hazardous waste facilities;

(3) ~~[A]the~~ monitoring requirements under Section R315-270-31 for hazardous waste facilities;

(4) ~~[A]the~~ information required for permits issued under Rules R315-15, R315-17, and R315-301 through R315-320; and

(5) ~~[S]standards for treatment, storage, and~~ disposal, or any combination of the three, and other permit conditions under Section R315-270-30~~[;]~~ for hazardous waste facilities.

(e) ~~[A]Each~~ draft permit[s] prepared by the [D]director under Section R315-124-6 shall be accompanied by a statement of basis or fact sheet, and shall be based on the administrative record, publicly noticed and made available for public comment. The [D]director shall give notice of opportunity for a public hearing, issue a final decision, and respond to comments.

#### **R315-124-7. Procedures for Decisionmaking -- Statement of Basis.**

The [D]director shall prepare a statement of basis for every draft permit ~~[for which]that~~ a fact sheet under Section R315-124-8 is not prepared. The statement of basis shall briefly describe the conditions of the draft permit and the reasons for them or, in the case of notices of intent to deny or terminate, reasons supporting the tentative decision. The statement of basis shall be sent to the applicant and, on request, to any other person.

#### **R315-124-8. Procedures for Decisionmaking -- Fact Sheet.**

(a) A fact sheet shall be prepared for every draft permit ~~[where]if~~ a statement of basis is not prepared. The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit. The [D]director shall send this fact sheet to the applicant and, on request, to any other person.

(b) The fact sheet shall include, when applicable:

(1) ~~[A]~~a brief description of the type of facility or activity ~~[which]that~~ is the subject of the draft permit;



(2) ~~[F]~~the type and quantity of wastes, fluids, or pollutants ~~[which]that~~ are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged[-];

(3) Reserved;

(4) ~~[A]~~a brief summary of the basis for the draft permit conditions, including references to applicable statutory or regulatory provisions and appropriate supporting references to the administrative record required by Section R315-124-9;

(5) ~~[R]~~reasons why any requested variances or alternatives to required standards were granted or denied;

(6) ~~[A]~~a description of the procedures for reaching a final decision on the draft permit including:

(i) ~~[F]~~the beginning and ending dates of the comment period under Section R315-124-10 and the address where comments will be received;

(ii) ~~[P]~~procedures for requesting a hearing and the nature of that hearing; and

(iii) ~~[A]~~any other procedures ~~[by which]that~~ the public may participate in the final decision[-];

(7) ~~[N]~~name and telephone number of a person to contact for additional information.

#### **R315-124-9. Procedures for Decisionmaking -- Administrative Record for Draft Permits.**

(a) The provisions of a draft permit prepared by the ~~[D]~~director under Section R315-124-6 shall be based on the administrative record defined in Section R305-7-209 and Section R315-124-18.

(b) Section R315-124-9 applies to ~~[all]~~draft permits when public notice was given after the effective date of Rule R315-124.

#### **R315-124-10. Procedures for Decisionmaking -- Public Notice of Permit Actions and Public Comment Period.**

(a) Scope.

(1) The ~~[D]~~director shall give public notice that the following actions have occurred:

(i) ~~[A]~~a permit application has been tentatively denied under Subsection R315-124-6(b); or

(ii) ~~[A]~~a draft permit has been prepared under Subsection R315-124-6(d); or

(iii) ~~[A]~~a hearing has been scheduled under Section R315-124-12;

(2) Unless the director decides to submit the request to public notice, comment, or hearing under Subsection R315-124-5(b), ~~[N]~~no public notice is required ~~[when]if~~ a request for permit modification, revocation and reissuance, or termination is denied under Subsection R315-124-5(b). Written notice of that denial shall be given to the requester and to the permittee.

(3) Public notices may describe more than one permit or permit actions.

(b) Timing.

(1) Public notice of the preparation of a draft permit, including a notice of intent to deny a permit application, required under Subsection R315-124-10(a) shall allow at least 45 days for public comment.

(2) Public notice of a public hearing shall be given at least 30 days before the hearing. Public notice of the hearing may be given at the ~~[same]~~time ~~[as]of the~~ public notice of the draft permit and the two notices may be combined.

(c) Methods. Public notice of activities described in Subsection R315-124-10(a)(1) shall be given by the following methods:

(1) ~~[B]~~by mailing or electronic mailing a copy of a notice to the following persons:

(i) ~~[F]~~the applicant;

(ii) ~~[A]~~any other agency ~~[which]that~~ the ~~[D]~~director knows has issued or is required to issue a permit for the ~~[same]~~facility or activity including EPA;

(iii) ~~[F]~~federal and ~~[S]~~state agencies with jurisdiction over fish, shellfish, and wildlife resources, ~~[S]~~state ~~[H]~~historic ~~[P]~~preservation ~~[O]~~officers, including any affected ~~[S]~~states, and ~~[I]~~indian ~~[T]~~tribes[-];

(iv) through (viii) Reserved;

(ix) ~~[P]~~persons on a mailing list developed by:

(A) ~~[I]~~including those who request in writing to be on the list;

(B) ~~[S]~~soliciting persons for ~~["]~~area lists~~["]~~ from participants in past permit proceedings in that area; and

(C) ~~[N]~~notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in ~~[such]~~publications such as ~~[R]~~regional and ~~[S]~~state funded newsletters, environmental bulletins, ~~[S]~~state law journals, or through the ~~[D]~~department web page. The ~~[D]~~director may update the mailing list from time to time by requesting written indication of continued interest from those listed. The ~~[D]~~director may delete from the list the name of any person who fails to respond to such a request.

(x)(A) ~~[F]~~to any unit of local government having jurisdiction over the area where the facility is proposed to be located; and

(B) ~~[S]~~to each ~~[S]~~state agency having any authority under ~~[S]~~state law with respect to the construction or operation of ~~[such]the~~ facility[-];

(2)(i) Reserved;

(ii) ~~[P]~~publication of a notice in a daily or weekly major local newspaper of general circulation for hazardous waste facilities and nonhazardous solid waste management facilities and broadcast over local radio stations for hazardous waste facilities[-];

(3) ~~[F]~~in a manner constituting legal notice to the public under ~~[S]~~state law; and

(4) ~~[A]~~any other method reasonably calculated to give ~~[actual]~~notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.

(5) Any person otherwise entitled to receive notice under Subsection R315-124-10(c) may waive ~~[his or her]their~~ rights to receive notice for any classes and categories of permits.

(d) Contents.

(1) ~~[All]Each~~ public notice[s] issued under Rule R315-124 shall contain the following minimum information:

(i) Division of Waste Management and Radiation Control, P.O. Box 144880, Salt Lake City, Utah 84114-4880;

(ii) ~~[N]~~name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;

(iii) ~~[A]~~a brief description of the business conducted at the facility or activity described in the permit application or the draft permit;

(iv) ~~[N]~~name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit, statement of basis or fact sheet, and the application; and

(v) ~~[A]~~a brief description of the comment procedures required by Sections R315-124-11 and R315-124-12 and the time and place of any hearing that will be held, including a statement of

procedures to request a hearing, unless a hearing has already been scheduled, and other procedures ~~[by which]~~ that the public may participate in the final permit decision~~[-]; and~~

(vi) ~~through~~ (ix) Reserved;

(x) ~~[A]~~ any additional information considered necessary or proper.

(2) Public notices for hearings. In addition to the general public notice described in Subsection R315-124-10(d)(1), the public notice of a hearing under Section R315-124-12 shall contain the following information:

(i) ~~[R]~~ reference to the date of previous public notices relating to the permit;

(ii) ~~[D]~~ date, time, and place of the hearing; and

(iii) ~~[A]~~ a brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

(e) In addition to the general public notice described in Subsection R315-124-10(d)(1), ~~[aH]~~ the persons identified in Subsections R315-124-10(c)(1) ~~[-]~~ (i), R315-124-10(c)(1) (ii), and R315-124-10(c)(1) (iii) shall be mailed or provided electronically a copy of the fact sheet or statement of basis.

#### **R315-124-11. Procedures for Decisionmaking -- Public Comments and Requests for Public Hearings.**

During the public comment period provided under Section R315-124-10, any interested person may submit written comments on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. ~~[A]~~ Each comment~~[s]~~ shall be considered in making the final decision and shall be answered as provided in Section R315-124-17.

#### **R315-124-12. Procedures for Decisionmaking -- Public Hearings.**

(a)(1) The ~~[D]~~ director shall hold a public hearing when~~[ever]~~ the ~~[D]~~ director finds, on the basis of requests, a significant degree of public interest in a draft permit~~[(s)]~~ or permits;

(2) The ~~[D]~~ director may also hold a public hearing at the ~~[D]~~ director's discretion, when~~[ever]~~, for instance, such a hearing might clarify one or more issues involved in the permit decision;

(3)(i) ~~[t]~~ The ~~[D]~~ director shall hold a public hearing when~~[ever]~~ the ~~[D]~~ director receives written notice of opposition to a draft permit and a request for a hearing within 45 days of public notice under Subsection R315-124-10(b)(1);

(ii) ~~[w]~~ When~~[ever]~~ possible the ~~[D]~~ director shall schedule a hearing under Section R315-124-12 at a location convenient to the nearest population center to the proposed facility;

(4) Public notice of the hearing shall be given as specified in Section R315-124-10.

(b) When~~[ever]~~ a public hearing will be held, the ~~[D]~~ director shall designate a ~~[P]~~ presiding ~~[O]~~ officer for the hearing who shall be responsible for its scheduling and orderly conduct.

(c) Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under Section R315-124-10 shall automatically be extended to the close of any public hearing under Section R315-124-12. The ~~[hearing]~~ presiding officer may also extend the comment period by so stating at the hearing.

(d) An electronic recording or written transcript of the hearing shall be made available to the public.

#### **R315-124-13. Procedures for Decisionmaking -- Obligation to Raise Issues and Provide Information During the Public Comment Period.**

~~[A]~~ Each person~~[s]~~, including applicants, who believe any condition of a draft permit is inappropriate or that the ~~[D]~~ director's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, shall raise ~~[aH]~~ any reasonably ascertainable issues and submit ~~[aH]~~ each reasonably available argument~~[s]~~ supporting their position by the close of the public comment period, including any public hearing, under Section R315-124-10. Any supporting materials ~~[which]~~ that are submitted shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the ~~[same]~~ proceeding, or consist of ~~[S]~~ state or ~~[F]~~ federal statutes and regulations, EPA or ~~[D]~~ division documents of general applicability, or other generally available reference materials. Commenters shall make supporting materials not already included in the administrative record available to the ~~[D]~~ director as directed by the ~~[D]~~ director and consistent with Section R305-7-209. A comment period longer than 45 days may be necessary to give commenters a reasonable opportunity to comply with the requirements of Section R315-124-13. Additional time shall be granted under Section R315-124-10 to the extent that a commenter who requests additional time demonstrates the need for ~~[such]~~ additional time.

#### **R315-124-15. Procedures for Decisionmaking -- Issuance and Effective Date of Permit.**

(a) After the close of the public comment period under Section R315-124-10 on a draft permit, the ~~[D]~~ director shall issue a final permit decision, or a decision to deny a permit for the active life of a hazardous waste management facility or unit under Section R315-270-29. The ~~[D]~~ director shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures for appealing a decision on a hazardous waste permit or a decision to terminate a hazardous waste permit. For the purposes of Section R315-124-15, a final permit decision means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.

(b) A final permit decision, or a decision to deny a permit for the active life of a hazardous waste management facility or unit under Section R315-270-29, shall become effective upon issuance, unless:

(1) ~~[A]~~ a later effective date is specified in the decision; or

(2) ~~[R]~~ review is requested on the permit under Rule R305-7 and a stay is granted under Subsection 19-1-301.5 ~~[(16)]~~ 17.

#### **R315-124-16. Procedures for Decisionmaking -- Stays of Contested Permit Conditions.**

The provisions covering appeals and stays are found in Rule R305-7 and Subsection 19-1-301.5 ~~[(16)]~~ 17.

#### **R315-124-17. Procedures for Decisionmaking -- Response to Comments.**

(a) ~~[At the time that]~~ When any final permit decision is issued under Section R315-124-15, the ~~[D]~~ director shall issue a response to comments. This response shall:

(1) ~~[S]~~ specify ~~[which]~~ the provisions, if any, of the draft permit that have been changed in the final permit decision, and the reasons for the change; and

(2) ~~[B]~~ briefly describe and respond to ~~[aH]~~ each significant comment~~[s]~~ on the draft permit or the permit application raised during the public comment period, or during any hearing.

(b) Any documents cited in the response to comments shall be included in the administrative record for the final permit decision as defined in Section R315-124-18. If new points are raised or new material supplied during the public comment period, the [D]director may document the response to those matters by adding new materials to the administrative record.

#### **R315-124-18. Procedures for Decisionmaking -- Administrative Record for Final Permit.**

(a) The [D]director shall base final permit decisions under Section R315-124-15 on the administrative record defined in Section R315-124-18.

(b) The administrative record for any final permit shall consist of the administrative record for the draft permit and:

(1) [A]any comments received during the public comment period provided under Section R315-124-10;

(2) [F]the recording or transcript of any hearing[s] held under Section R315-124-12;

(3) [A]any written materials submitted at such a hearing;

(4) [F]the response to comments required by Section R315-124-17 and any new material placed in the record under that section;

(5) Reserved;

(6) [O]other documents contained in the supporting file for the permit; and

(7) [F]the final permit.

(c) The additional documents required under Subsection R315-124-18(b) should be added to the record as soon as possible after their receipt or publication by the [D]division. The record shall be complete on the date the final permit is issued.

(d) Section R315-124-18 applies to [a]any final permits [when]if the draft permit was subject to the administrative record requirements of Section R315-124-9.

(e) Material readily available at the [D]division [O]office, or published materials [which]that are generally available and [which]that are included in the administrative record under the standards of Section R315-124-18 or R315-124-17, need not be physically included in the [same]file [as]with the rest of the record as long as it is specifically referred to in the statement of basis or fact sheet or in the response to comments.

#### **R315-124-19. Procedures for Decisionmaking -- Appeal of Permits.**

(a) Petitioning for review of a permit decision.

(1) Initiating an appeal. Except for a decision to terminate a permit, [A]appeal from a final permit decision issued under Section R315-124-15, or a decision to deny a permit for the active life of a hazardous waste management facility or unit under Section R315-270-29 is commenced by filing a [Request for Agency Action]Petition for Review as described in [Rule]Section R305-7-203. In accordance with Subsection 19-1-301.5(1)(f)(ii) appeal from a decision to terminate a permit is commenced by filing a Request for Agency Action as described in Rule R305-7.

#### **R315-124-20. Procedures for Decisionmaking -- Computation of Time.**

(a) Any time period scheduled to begin on the occurrence of an act or event shall begin on the day after the act or event.

(b) Any time period scheduled to begin before the occurrence of an act or event shall be computed so that the period ends on the day before the act or event.

(c) If the final day of any time period falls on a weekend or legal holiday, the time period shall be extended to the next working day.

(d) When[ever] an [party or]interested person [has the right or is required to]may or shall act within a prescribed period after the service of notice or other paper upon [him or her]the interested person by mail, [3]three days shall be added to the prescribed time.

(e) The computations of time specified in Section R315-124-20 do not supersede the computations of time in Rule R305-7.

#### **R315-124-31. Procedures for Decisionmaking -- Pre-Application Public Meeting and Notice.**

(a) Applicability. The requirements of Section R315-124-31 shall apply to [a]any part B applications seeking initial permits for hazardous waste management units. The requirements of Section R315-124-31 shall also apply to part B applications seeking renewal of permits for [such]hazardous waste management units[.] [where]if the renewal application is proposing a significant change in facility operations. For the purposes of Section R315-124-31, a ["]significant change["] is any change that would qualify as a class 3 permit modification under Section R315-270-42. The requirements of Section R315-124-31 do not apply to permit modifications under Section R315-270-42, a nonhazardous solid waste management facility, or to applications that are submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

(b) [Prior to]Before the submission of a part B permit application for a facility, the applicant shall hold at least one meeting with the public [in order]to solicit questions from the community and inform the community of proposed hazardous waste management activities. The applicant shall post a sign-in sheet or otherwise provide a voluntary opportunity for attendees to provide their names and addresses.

(c) The applicant shall submit a summary of the meeting, along with the list of attendees and their addresses developed under Subsection R315-124-31(b), and copies of any written comments or materials submitted at the meeting, to the [D]director as a part of the part B application, in accordance with Subsection R315-270-14(b).

(d) The applicant shall provide public notice of the pre-application meeting at least 30 days [prior to]before the meeting. The applicant shall maintain, and provide to the [D]director upon request, documentation of the notice.

(1) The applicant shall provide public notice in [a]each of the following forms:

(i) A newspaper notice. The applicant shall publish a notice, fulfilling the requirements in Subsection R315-124-31(d)(2), in a newspaper of general circulation in the county or equivalent jurisdiction that hosts the proposed location of the facility. In addition, the [D]director shall instruct the applicant to publish the notice in newspapers of general circulation in adjacent counties or equivalent jurisdictions, [where]if the [D]director determines that [such]the publication is necessary to inform the affected public.

(ii) A visible and accessible sign. The applicant shall post a notice on a clearly marked sign at or near the facility, fulfilling the requirements in Subsection R315-124-31(d)(2). If the applicant places the sign on the facility property, then the sign shall be large enough to be readable from the nearest point where the public would pass by the site.

(iii) A broadcast media announcement. The applicant shall broadcast a notice, fulfilling the requirements in Subsection R315-124-31(d)(2), at least once on at least one local radio station or

## NOTICES OF PROPOSED RULES

television station. The applicant may ~~employ~~ use another medium with prior approval of the [D]director.

(iv) A notice to the permitting agency. The applicant shall send a copy of the newspaper notice to the [D]director and to the appropriate local government, in accordance with Subsection R315-124-10(c)(1)(x).

(2) The notices required under Subsection R315-124-31(d)(1) shall include:

(i) [F]the date, time, and location of the meeting;

(ii) [A]a brief description of the purpose of the meeting;

(iii) [A]a brief description of the facility and proposed operations, including the address or a map, ~~e.g.~~ for example, a sketched or copied street map, of the facility location;

(iv) [A]a statement encouraging people to contact the facility at least 72 hours before the meeting if they need special access to participate in the meeting; and

(v) [F]the name, address, and telephone number of a contact person for the applicant.

### **R315-124-32. Procedures for Decisionmaking -- Public Notice Requirements at the Application Stage.**

(a) Applicability. The requirements of Section R315-124-32 shall apply to ~~all~~ part B applications seeking initial permits for hazardous waste management units. The requirements of Section R315-124-32 shall also apply to part B applications seeking renewal of permits for ~~such~~ hazardous waste management units under Section R315-270-51. The requirements of Section R315-124-32 do not apply to permit modifications under Section R315-270-42, a nonhazardous solid waste facility, or permit applications submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

(b) Notification at application submittal.

(1) The [D]director shall provide public notice as set forth in Subsection R315-124-10(c)(1)(ix), and notice to appropriate units of [S]state and local government as set forth in Subsection R315-124-10(c)(1)(x), that a part B permit application has been submitted to the [D]director and is available for review.

(2) The notice shall be published within a reasonable period ~~of time~~ after the application is received by the [D]director. The notice shall include:

(i) [F]the name and telephone number of the applicant's contact person;

(ii) [F]the name and telephone number of the [D]division, and a mailing address ~~to which~~ where information, opinions, and inquiries may be directed throughout the permit review process;

(iii) [A]an address or email address ~~to which~~ where people can write ~~in order~~ to be put on the facility mailing list;

(iv) [F]the location where copies of the permit application and any supporting documents can be viewed and copied;

(v) [A]a brief description of the facility and proposed operations, including the address or a map, ~~e.g.~~ for example, a sketched or copied street map, of the facility location on the front page of the notice; and

(vi) [F]the date that the application was submitted.

(c) Concurrent with the notice required under Subsection R315-124-32(b), the [D]director shall place the permit application and any supporting documents in a location accessible to the public in the vicinity of the facility or at the [D]division's office.

### **R315-124-33. Procedures for Decisionmaking -- Information Repository.**

(a) Applicability. The requirements of Section R315-124-33 apply to ~~all~~ applications seeking permits for hazardous waste management units.

(b) The [D]director may assess the need, on a case-by-case basis, for an information repository. When assessing the need for an information repository, the [D]director shall consider a variety of factors, including: the level of public interest; the type of facility; the presence of an existing repository; and the proximity to the nearest copy of the administrative record. If the [D]director determines, at any time after submittal of a permit application, that there is a need for a repository, then the [D]director shall notify the facility that it shall establish and maintain an information repository. See Subsection R315-270-30(m) for similar provisions relating to the information repository during the life of a permit.

(c) The information repository shall contain ~~all~~ the documents, reports, data, and information deemed necessary by the [D]director to fulfill the purposes ~~for which~~ of the repository ~~is established~~. The [D]director shall have the discretion to limit the contents of the repository.

(d) The information repository shall be located and maintained at a site chosen by the facility. If the [D]director finds the site unsuitable for the purposes and persons ~~for which~~ that it was established, due to problems with the location, hours of availability, access, or other relevant considerations, then the [D]director shall specify a more appropriate site.

(e) The [D]director shall specify requirements for informing the public about the information repository. At a minimum, the [D]director shall require the facility to provide a written notice about the information repository to ~~all~~ the individuals on the facility mailing list.

(f) The facility owner ~~or~~ operator shall be responsible for maintaining and updating the repository with appropriate information throughout a time period specified by the [D]director. The [D]director may close the repository at the [D]director's discretion, based on the factors in Subsection R315-124-33(b).

### **R315-124-34. Public Participation.**

In addition to hearings required under the [S]state Administrative Procedures Act and proceedings otherwise outlined or referenced in ~~these rules~~ Rule R315-124, the [D]director will investigate and provide written response to ~~all~~ any citizen complaints ~~duly~~ submitted. In addition, the [D]director ~~shall~~ may not oppose intervention in any civil or administrative proceeding by any citizen ~~where~~ if permissive intervention may be authorized by statute, rule or regulation. The [D]director shall publish notice of and provide at least 30 days for public comment on any proposed settlement of any enforcement action.

#### **KEY: hazardous waste**

**Date of Last Change:** 2024~~February 17, 2022~~

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

**Authorizing, and Implemented or Interpreted Law:** 19-6-105; 19-6-106

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

**TYPE OF FILING:** Amendment

**Rule or Section Number:**

**R315-301**

**Filing ID:**  
**56180**

**Agency Information**

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Waste Management and Radiation Control, Waste Management	
<b>Room number:</b>	2nd Floor	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 144880	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4880	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tom Ball	385-454-5574	tball@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R315-301. Solid Waste Authority, Definitions, and General Requirements
<b>3. Purpose of the new rule or reason for the change:</b>
The Division of Waste Management and Radiation Control, Waste Management (Division) is amending this rule to correct rule and statutory references that have changed due to other rule and statute amendments, providing clarifying language, and amending rule language in accordance with legislation.
The Division is also correcting typographical and rule formatting errors.
<b>4. Summary of the new rule or change:</b>
The statutory citation found in Subsection R315-301-2(7) to Subsection 19-6-102(3)(a)(iii) is being corrected to reference Subsection 19-6-102(3)(b)(iii).
Clarifying language is being added to Subsection R315-301-2(12) to direct readers to the definition of commercial nonhazardous solid waste landfill.
The statutory citation found in Subsection R315-301-2(35) to Subsection 19-6-102(18)(b) is being corrected to reference Subsection 19-6-102(19).
Language is being added to Subsection R315-301-4(4)(b) to clarify that Rules R315-301 through R315-320 do not apply to the disposal of mine tailings and overburden at the site of generation.

Language is being added to Section R315-301-4 as required by H.B. 301 that was passed during the 2019 General Session of the Utah Legislature.

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

It is not anticipated that there will be any cost or savings to the state budget based on this rule amendment because the state does not operate any solid waste facilities that would be affected by the amendments.

**B) Local governments:**

It is not anticipated that there will be any cost or savings to local governments based on this rule amendment because the amendments mainly clarify rule language and there are no local government operated solid waste facilities that would be affected by the amendments.

Some of the added exemptions in Subsection R315-301-4(4) may result in cost savings for entities that generate those types of waste.

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

It is not anticipated that there will be any cost or savings to any small businesses based on this rule amendment because the amendments mainly clarify rule language and there are no small businesses operated solid waste facilities that would be affected by the amendments.

Some of the added exemptions in Subsection R315-301-4(4) may result in cost savings for entities that generate those types of waste.

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

It is not anticipated that there will be any cost or savings to any non-small businesses based on this rule amendment because the amendments mainly clarify rule language and there are no non-small businesses operated solid waste facilities that would be affected by the amendments.

Some of the added exemptions in Subsection R315-301-4(4) may result in cost savings for entities that generate those types of waste.

**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**):

It is not anticipated that there will be any cost or savings to any persons other than small businesses, non-small businesses, state, or local government entities based on

this rule amendment because the amendments mainly clarify rule language and there are no solid waste facilities operated by any persons other than small businesses, non-small businesses, state, or local government entities that would be affected by the amendments.

Some of the added exemptions in Subsection R315-301-4(4) may result in cost savings for entities that generate those types of waste.

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

It is not anticipated that there will be any costs for affected persons who must comply with this amended rule because the amendments mainly clarify rule language.

Some of the added exemptions in Subsection R315-301-4(4) may result in cost savings for entities that generate those types of waste.

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

**Regulatory Impact Table**

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

<b>Net Benefits</b>	<b>Fiscal</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>				
The Executive Director of the Department of Environmental Quality, Kim Shelley, 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 19-6-105	Section 19-6-108	Section 19-6-109
------------------	------------------	------------------

**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.)

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	01/15/2024
---	------------

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Division Director	<b>Date:</b>	11/09/2023
---	--------------------------------------	--------------	------------

**R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.**

**R315-301. Solid Waste Authority, Definitions, and General Requirements.**

**R315-301-2. Definitions.**

Terms used in Rules R315-301 through R315-320 are defined in Sections 19-1-103, 19-6-102, and 19-6-803. In addition, ~~[for the purpose of]~~ the following definitions apply to Rules R315-301 through R315-320~~;~~ the following definitions apply.

(1) "Active area" means that portion of a facility where solid waste recycling, reuse, treatment, storage, or disposal operations are being conducted.

(2) "Airport" means a public[-]\_use airport open to the public without prior permission and without restrictions within the physical capacities of available facilities.

(3) "Aquifer" means a geological formation, group of formations, or portion of a formation that contains sufficiently saturated permeable material to yield ~~[usable]~~ usable quantities of ~~[ground water]~~ groundwater to wells or springs.

(4) "Areas susceptible to mass movement" means those areas of influence, characterized as having an active or substantial possibility of mass movement, where the movement of earth material at, beneath, or adjacent to the landfill unit, because of natural or

human[-]induced events, results in the downslope transport of soil and rock material by ~~means of~~ gravitational influence. Areas of mass movement include landslides, avalanches, debris slides and flows, soil fluctuation, block sliding, and rock falls.

(5) "Asbestos waste" means friable asbestos, which is any material containing more than 1% asbestos as determined using the method specified in Appendix A, 40 CFR Part 763.1, 2001 ed., which is ~~adopted and~~ incorporated by reference, that ~~when~~ if dry, can be crumbled, pulverized, or reduced to powder by hand pressure.

(6) "Background concentration" means the concentration of a contaminant in ~~ground water~~ groundwater upgradient or a lateral hydraulically equivalent point from a facility, practice, or activity, and which has not been affected by that facility, practice, or activity.

(7) "Class I Landfill" means a non[-]commercial landfill or a landfill that meets the definition found in Subsection 19-6-102(3)(~~a~~)(b)(iii) and is permitted by the ~~D~~director;

(a) to receive for disposal:

(i) municipal solid waste;

(ii) any other nonhazardous solid waste, not otherwise limited by rule or solid waste permit; or

(iii) in conjunction with municipal solid waste or other nonhazardous solid waste, waste from a very small quantity generator of hazardous waste, as defined by Section R315-260-10; and

(b) does not meet the standards of Subsection R315-303-3(3)(c)(v).

(8) "Class II Landfill" means a non[-]commercial landfill or a landfill that is permitted by the ~~D~~director;

(a) to receive for disposal:

(i) municipal solid waste;

(ii) any other nonhazardous solid waste, not otherwise limited by rule or solid waste permit; or

(iii) in conjunction with municipal solid waste or other nonhazardous solid waste, waste from a very small quantity generator of hazardous waste, as defined by Section R315-260-10[-]; and

(b) meets the standards of Subsection R315-303-3(3)(c)(v).

(9) "Class III Landfill" means a non[-]commercial landfill that is permitted by the ~~D~~director to receive for disposal only industrial solid waste.

(10) "Class IV Landfill" means a non[-]commercial landfill that is permitted by the ~~D~~director to receive for disposal only:

(a) construction~~[f]~~ or demolition waste;

(b) yard waste;

(c) inert waste;

(d) dead animals, as approved by the ~~D~~director and upon meeting the requirements of Section R315-315-6;

(e) waste tires and materials derived from waste tires, upon meeting the requirements of Section 19-6-804 and Section R315-320-3; and

(f) petroleum[-]contaminated soils, upon meeting the requirements of Subsection R315-315-8(3).

(11) "Class V Landfill" means a commercial nonhazardous solid waste disposal facility, as defined by Subsection 19-6-102(3), that is permitted by the ~~D~~director to receive for disposal:

(a) municipal solid waste;

(b) any other nonhazardous solid waste, not otherwise limited by rule or solid waste permit; and

(c) in conjunction with municipal solid waste or other nonhazardous solid waste, waste from a very small quantity generator of hazardous waste, as defined by Section R315-260-10.

(12) "Class VI Landfill" means a commercial nonhazardous solid waste landfill, as defined by Subsection 19-6-102(3), that is permitted by the ~~D~~director to receive for disposal only:

(a) construction~~[f]~~ or demolition waste, excluding waste from a very small quantity generator of hazardous waste, as defined by Section R315-260-10;

(b) yard waste;

(c) inert waste;

(d) dead animals, as approved by the ~~D~~director and upon meeting the requirements of Section R315-315-6;

(e) waste tires and materials derived from waste tires, upon meeting the requirements of Section 19-6-804 and Subsection R315-320-3(1) or R315-320-3(2); and

(f) petroleum[-]contaminated soils, upon meeting the requirements of Subsection R315-315-8(3).

(g) A Class VI Landfill may not receive for disposal:

(i) hazardous waste;

(j) construction~~[f]~~ or demolition waste containing PCBs, except as allowed by Section R315-315-7;

(iii) garbage;

(iv) municipal solid waste; or

(v) industrial solid waste.

(h) The wastes received at a Class VI Landfill may be further limited by a solid waste permit.

(i) A Class VI Landfill may not change to a Class V Landfill except by meeting ~~all~~ each requirement[s] for a Class V Landfill including obtaining a new Class V Landfill permit and completing the requirements specified in Subsection R315-310-3(2).

(13) "Closed facility" means any facility that no longer receives solid waste and has completed an approved closure plan, and any landfill on which an approved final cover has been installed.

(14) "Commercial solid waste" means ~~all~~ any type[s] of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding household waste and industrial wastes.

(15) "Composite liner" means a liner system consisting of two components[-]; the upper component consisting of a synthetic flexible membrane liner, and the lower component consisting of a layer of compacted soil. The composite liner ~~must~~ shall have the synthetic flexible membrane liner installed in direct and uniform contact with the compacted soil component and be constructed of specified materials and compaction to meet specified permeabilities.

(16) "Composting" means a method of solid waste management whereby the organic component of the waste stream is biologically decomposed under controlled aerobic conditions, at a temperature of 140 degrees Fahrenheit, ~~[f]~~ 60 degrees Celsius[-], or higher, for at least ~~some~~ part of each day of a consecutive seven day period, to a state in which the end product or compost can be handled, stored, or applied to the land without adversely affecting human health or the environment.

(17) "Construction~~[f]~~ or demolition waste" means solid waste from building materials, packaging, and rubble resulting from construction, remodeling, repair, abatement, rehabilitation, renovation, and demolition operations on pavements, houses, commercial buildings, and other structures, including waste from a very small quantity generator of hazardous waste, as defined by Section R315-260-10, that may be generated by these operations.

(a) ~~Such~~ This waste may include:

(i) concrete, bricks, and other masonry materials;

(ii) soil and rock;

(iii) waste asphalt;



## NOTICES OF PROPOSED RULES

- (iv) rebar contained in concrete; and
- (v) untreated wood, and tree stumps.
- (b) Construction~~[4]~~ or demolition waste does not include:
  - (i) friable asbestos;
  - (ii) treated wood; or
  - (iii) contaminated soils or tanks resulting from remediation or clean~~[-]~~up at any release or spill.

(18) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water or soil that is a result of human activity.

(19) "Displaced" or "displacement" means the relative movement of any two sides of a fault measured in any direction.

(20) "Drop box facility" means a facility used for the placement of a large detachable container or drop box for the collection of solid waste for transport to a solid waste disposal facility. The facility includes the area adjacent to the containers for necessary entrance, exit, unloading, and turn~~[-]~~around areas. Drop box facilities normally serve the general public with uncompacted loads and receive waste from off~~[-]~~site. Drop box facilities do not include residential or commercial waste containers on the site of waste generation.

(21) "Energy recovery" means the recovery of energy in a ~~[useable]~~usable form from incineration, burning, or any other means of using the heat of combustion of solid waste that involves high temperature, ~~[above 1,200 degrees Fahrenheit]~~, processing.

(22) "Existing facility" means any facility that has:

(a) a current valid solid waste permit or other valid approval issued under Rules R315-301 through R315-320 by the ~~[D]~~director; and

(b) received final approval to accept waste as required by Subsection R315-301-5(1).

(23) "Expansion of a solid waste disposal facility" means any lateral expansion beyond the property boundaries outlined in the permit application for the current permit under which the facility is operating.

(24) "Facility" means ~~[all]~~the contiguous land, structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of solid waste. A facility may consist of several treatment, storage, or disposal operational units, ~~[e.g.]~~for example, one or more incinerators, landfills, container storage areas, or combinations of these.

(25) "Floodplain" means the land that has been or may be ~~[hereafter]~~covered by flood water which has a 1% chance of occurring any given year. The flood is also referred to as the base flood or 100-year flood.

(26) "Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure or as determined by ~~[EPA test method 9095]~~Test Method 9095B, ~~[Paint Filter Liquids Test]~~, as provided in EPA Publication SW-846, ~~[Report SW-846]~~"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" available at the US EPA Hazardous Waste Test Methods/SW-846 website~~[as revised December 1996] which is adopted and incorporated by reference~~.

(27) "Garbage" means discarded animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food, and of ~~[such]~~a character and proportion as to be capable of attracting or providing food for vectors. Garbage does not include sewage and sewage sludge.

(28) "~~[Ground-water]~~Groundwater" means subsurface water that is in the zone of saturation including perched ~~[ground water]~~groundwater.

(29) "~~[Ground-water]~~Groundwater" quality standard" means a standard for maximum allowable contamination in ~~[ground water]~~groundwater as set by Section R315-308-4.

(30) "Hazardous waste" means hazardous waste as defined by Subsection 19-6-102(9) and Section R315-261-3.

(31) "Holocene fault" means a fracture or zone of fractures along which rocks on one side of the fracture have been displaced with respect to those on the other side, which has occurred in the most recent epoch of the Quaternary period extending from the end of the Pleistocene, approximately 11,000 years ago, to the present.

(32) "Household size" means a container for a material or product that is normally and reasonably associated with households or household activities. The containers are of a size and design to hold materials or products generally for immediate use and not for storage, five gallons or less in size.

(33) "Household waste" means any solid waste, including garbage, trash, and sanitary waste in septic tanks, derived from households including single and multiple residences, hotels, motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day~~[-]~~use recreation areas.

(34) "Incineration" means a controlled thermal process by which solid wastes are physically or chemically altered to gas, liquid, or solid residues that are also regulated solid wastes. Incineration includes the thermal destruction of solid waste for energy recovery. Incineration does not include smelting operations where metals are reprocessed or the refining, processing, or burning of used oil for energy recovery as described in Rule R315-15.

(35) "Industrial solid waste" means any solid waste generated at a manufacturing or other industrial facility that is not a hazardous waste or that is a hazardous waste from a very small quantity generator of hazardous waste, as defined by Section R315-260-10, generated by an industrial facility. Industrial solid waste includes waste from the following industries or resulting from the following manufacturing processes and associated activities:

- ~~\_\_\_\_\_~~(a) electric power generation;
- ~~\_\_\_\_\_~~(b) fertilizer or agricultural chemical industries;
- ~~\_\_\_\_\_~~(c) food and related products or by-products industries;
- ~~\_\_\_\_\_~~(d) inorganic chemical industries;
- ~~\_\_\_\_\_~~(e) iron and steel manufacturing;
- ~~\_\_\_\_\_~~(f) leather and leather product industries;
- ~~\_\_\_\_\_~~(g) nonferrous metals manufacturing or foundry industries;
- ~~\_\_\_\_\_~~(h) organic chemical industries;
- ~~\_\_\_\_\_~~(i) plastics and resins manufacturing;
- ~~\_\_\_\_\_~~(j) pulp and paper industry;
- ~~\_\_\_\_\_~~(k) rubber and miscellaneous plastic product industries;
- ~~\_\_\_\_\_~~(l) stone, glass, clay, and concrete product industries;
- ~~\_\_\_\_\_~~(m) textile manufacturing;
- ~~\_\_\_\_\_~~(n) transportation equipment manufacturing; and
- ~~\_\_\_\_\_~~(o) water treatment industries.
- ~~\_\_\_\_\_~~(p) This term does not include mining waste~~[;]~~, oil and gas waste~~[;]~~, or other waste excluded by Subsection 19-6-102~~[(18)(b)]~~(19).

(36) "Industrial solid waste facility" means a facility that receives only industrial solid waste from on-site or off-site sources for disposal.

(37) "Inert waste" means noncombustible, nonhazardous solid wastes that ~~[retain]~~keep their physical and chemical structure under expected conditions of disposal, including wastes that exhibit resistance to biological or chemical change.

(38) "Landfill" means a disposal facility where solid waste is or has been placed in or on the land and that is not a landtreatment facility or surface impoundment.



(39) "Land[-]treatment, landfarming, or landspreading facility" means a facility or unit within a facility where solid waste is applied onto or incorporated into the soil surface for ~~[the purpose of]~~ biodegradation.

(40) "Lateral expansion of the solid waste disposal area" means:

(a) any horizontal expansion of the waste boundaries of an existing landfill cell, module, or unit;

(b) the construction of a new cell, module, or unit within the boundaries outlined in the permit application of the current permit under which the facility is operating; or

(c) any horizontal expansion not consistent with past normal operating practices.

(41) "Lateral hydraulically equivalent point" means a point located hydraulically equal to a facility and in the ~~[-same]~~ ~~[ground water]~~ groundwater with similar geochemistry such that the ~~[ground water]~~ groundwater, at that point, has not been affected by the facility.

(42) "Leachate" means a liquid that has passed through or emerged from solid waste and that may contain soluble, suspended, miscible, or immiscible materials removed from ~~[such]~~ the waste.

(43) "Lithified earth material" means ~~[all]~~ any rock, including ~~[all]~~ any naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that formed by crystallization of magma or by induration of loose sediments. This term does not include human[-]made materials, such as fill, concrete and asphalt, or unconsolidated earth materials, soil, or regolith lying at or near the earth surface.

(44) "Lower explosive limit" means the lowest percentage by volume of a mixture of explosive gases that will propagate a flame in air at 25 degrees Celsius, ~~[4]~~ 77 degrees Fahrenheit~~[3]~~, and atmospheric pressure.

(45) "Maximum horizontal acceleration in lithified earth material" means the maximum expected horizontal acceleration depicted on a seismic hazard map, with a 90% or greater probability that the acceleration will not be exceeded in 250 years, or the maximum expected horizontal acceleration based on ~~[-]~~ site specific seismic risk assessment.

(46) "Municipal solid waste landfill" means a permitted nonhazardous solid waste landfill that may receive municipal solid waste for disposal.

(47) "Municipal solid waste" means household waste, nonhazardous commercial solid waste, and non~~[-]~~hazardous sludge.

(48) "New facility" means any facility that:

(a) has applied for a permit or other valid approval issued under Rules R315-301 through R315-320 by the ~~[D]~~ director;

(b) did not have a permit or other valid approval issued under Rules R315-301 through R315-320 at the time of the application; and

(c) has not received final approval to accept waste as required by Subsection R315-301-5(1).

(49) "Off~~[-]~~site" means any site which is not on~~[-]~~site.

(50) "On~~[-]~~site" means the ~~[same or]~~ geographically contiguous property that may be divided by public or private right-of-way, ~~[provided that]~~ where the entrance and exit between the properties is at a cross~~[-]~~roads intersection, and access is by crossing, as opposed to going along the right-of-way. Property separated by a private right-of-way, which the site owner or operator controls, and to which the public does not have access, is also considered on-site property.

(51) "Operator" means the person, as defined by Subsection 19-1-103(4), responsible for the overall operation of a facility.

(52) "Owner" means the person, as defined by Subsection 19-1-103(4), who has an ownership interest in a facility or part of a facility.

(53) "PCB" or "PCBs" means any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of materials which contain ~~[such]~~ these substances.

(54) "Permeability" means the ease with which a porous material allows water and the solutes contained therein to flow through it. This is usually expressed in units of centimeters per second (cm/sec) and termed hydraulic conductivity. Soils and synthetic liners with a permeability for water of  $1 \times 10^{-7}$  cm/sec or less may be considered impermeable.

(55) "Permit" means the plan approval as required by Subsection 19-6-108(3)(a), or equivalent control document issued by the ~~[D]~~ director to implement the requirements of the Utah Solid and Hazardous Waste Act.

(56) "Pile" means any noncontainerized accumulation of solid waste that is used for treatment or storage.

(57) "Poor foundation conditions" means those areas where features exist which indicate that a natural or human~~[-]~~ induced event may result in inadequate foundation support for the structural components of a landfill unit.

(58) "Putrescible waste" means solid waste which contains organic matter capable of being decomposed by microorganisms and of such a character and proportion as to be capable of attracting or providing food for vectors including birds and mammals.

(59) "Qualified ~~[ground water]~~ groundwater scientist" means a scientist or engineer who has received a baccalaureate or post~~[-]~~graduate degree in the natural sciences or engineering and has sufficient training and experience in ~~[ground water]~~ groundwater hydrology and related fields as may be demonstrated by state registration, professional certification, or completion of accredited university programs that enable that individual to make sound professional ~~[judgements]~~ judgments regarding ~~[ground water]~~ groundwater monitoring, contaminant fate and transport, and corrective action.

(60) "Recycling" means extracting valuable materials from the waste stream and transforming or remanufacturing them into usable materials that have a demonstrated or potential market.

(a) Recycling does not include processes that generate ~~[such]~~ a volume~~[s]~~ of material so large that no market exists for the material.

(b) Any part of the waste stream entering a recycling facility and subsequently returning to a waste stream or being otherwise disposed has the ~~[same]~~ regulatory designation ~~[as]~~ of the original waste.

(c) Recycling includes the substitution of nonhazardous solid waste fuels for conventional fuels, ~~[4]~~ such as coal, natural gas, and petroleum products~~[3]~~, ~~[for the purpose of generating]~~ to generate the heat necessary to manufacture a product.

(61) "Recyclable materials" means those solid wastes that can be recovered from or otherwise diverted from the waste stream for ~~[the purpose of]~~ recycling, such as metals, paper, glass, and plastics.

(62) "Run-off" means any rainwater, leachate, or other liquid that has contacted solid waste and drains over land from any part of a facility.

(63) "Run-on" means any rainwater, leachate, or other liquid that drains over land onto the active area of a facility.

(64) "Scavenging" means the unauthorized removal of solid waste from a facility.

## NOTICES OF PROPOSED RULES

(65) "Seismic impact zone" means an area with a 10% or greater probability that the maximum horizontal acceleration in lithified earth material, expressed as a percentage of the earth's gravitational pull, will exceed 0.10g in 250 years.

(66) "Septage" means a semisolid consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from septic tank systems.

(67) "Sharps" means any discarded or contaminated article or instrument from a health facility that may cause puncture or cuts. ~~[Such]~~This waste may include needles, syringes, blades, needles with attached tubing, pipettes, pasteurs, broken glass, and blood vials.

(68) "Sludge" means any solid, semisolid, or liquid waste, including grit and screenings generated from~~[-a]~~:

(a) municipal, commercial, or industrial ~~[waste water]~~wastewater treatment plants;

(b) water supply treatment plants;

(c) car wash ~~[facility]~~facilities;

(d) air pollution control ~~[facility]~~facilities; or

(e) any other ~~[such]~~ waste having similar characteristics.

(69) "Solid waste disposal facility" means a landfill, incinerator, or land~~[-]~~treatment area.

(70) "Solid waste incinerator facility" means a facility at which solid waste is received from on-site or off-site sources and is subjected to the incineration process. An incinerator facility that incinerates solid waste for any reason, including energy recovery, volume reduction, or to ~~[render]~~make it non~~[-]~~infectious, is a solid waste incinerator facility and is subject to Rules R315-301 through R315-320.

(71) "Special waste" means discarded solid waste that may require special handling or other solid waste that may pose a threat to public safety, human health, or the environment.

(a) Special waste may include:

(i) ash;

(ii) automobile bodies;

(iii) furniture and appliances;

(iv) infectious waste;

(v) waste tires;

(vi) dead animals;

(vii) asbestos;

(viii) waste exempt from the hazardous waste ~~[regulations]~~rules under Section R315-261-4;

(ix) very small quantity generator hazardous waste as defined by Section R315-260-10;

(x) waste containing PCBs;

(xi) petroleum contaminated soils;

(xii) waste asphalt; and

(xiii) sludge.

(b) Special waste ~~[must]~~shall be handled and disposed according to the requirements of Rule R315-315.

(72) ~~["State" means the State of Utah.]~~Reserved.

(73) "Structural components" means liners, leachate collection systems, final covers, run-on or run-off systems, and any other component used in the construction and operation of a landfill that is necessary for the protection of human health and the environment.

(74) "Surface impoundment or impoundment" means a facility or part of a facility which is a natural topographic depression, human~~[-]~~made excavation, or diked area formed primarily of earthen materials, although it may be lined with synthetic materials, which is designed to hold an accumulation of liquid waste or waste containing free liquids, and which is not an injection well. Examples of surface

impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

(75) "Transfer station" means a permanent, fixed, supplemental collection and transportation facility that is staffed by a minimum of one employee of the owner or operator during hours of operation and is used by persons and route collection vehicles to deposit collected solid waste from off-site into a transfer vehicle for transport to a solid waste handling or disposal facility.

(76) "Transport vehicle" means a vehicle capable of hauling solid waste such as a truck, packer, or trailer that may be used by refuse haulers to transport solid waste from the point of generation to a transfer station or a disposal facility.

(77) "Treated wood" means any wood item that has been treated with the following or compounds containing the following:

(a) creosote or related compounds;

(b) ~~[A]~~arsenic;

(c) ~~[C]~~chromium; or

(d) ~~[C]~~copper.

(78) "Twenty-five year storm" means a 24-hour storm of ~~[such]~~the intensity that it has a 4% probability of being equaled or exceeded any given year. The storm could result in what is referred to as a 25-year flood.

(79) "Unit" or "Solid Waste Management Unit" means a distinct operational storage, treatment, or disposal area at a solid waste management facility that contains ~~[all]~~the features to ~~[render]~~make it capable of performing its intended function and of being closed as a separate entity.

(80) "Unit boundary" means a vertical surface located at the hydraulically downgradient limit of a landfill unit or other solid waste disposal facility unit which is required to monitor ~~[ground water]~~groundwater. This vertical surface extends down into the ~~[ground water]~~groundwater.

(81) "Unstable area" means a location that is susceptible to natural or human induced events or forces capable of impairing the integrity of ~~[some or all of]~~the landfill structural components responsible for preventing releases from a facility. Unstable areas can include poor foundation conditions, areas susceptible to mass movements, and karst terrains.

(82) "Vadose zone" means the zone of aeration including soil and capillary water. The zone is bound above by the land surface and below by the water table.

(83) "Vector" means a living animal including insect or other arthropod which is capable of transmitting an infectious disease from one organism to another.

(84) "Washout" means the carrying away of solid waste by waters of a base or 100-year flood.

(85) "Waste tire storage facility" or "waste tire pile" means any site where more than 1,000 waste tires or 1,000 passenger tire equivalents are stored on the ground.

(a) A waste tire storage facility includes:

(i) whole waste tires used as a fence;

(ii) whole waste tires used as a windbreak; and

(iii) waste tire generators where more than 1,000 waste tires are held.

(b) A waste tire storage facility does not include:

(i) a site where waste tires are stored exclusively in buildings or in trailers;

(ii) if whole waste tires are stored for five or fewer days, the site of a registered tire recycler or a processor for a registered tire recycler;

(iii) a permitted solid waste disposal facility that stores whole tires in piles for not longer than one year;

(iv) a staging area where tires are temporarily placed on the ground, not stored, to accommodate activities such as sorting, assembling, or loading or unloading of trucks; or

(v) a site where waste tires or material derived from waste tires are stored for five or fewer days and are used for ballast to maintain covers on agricultural materials or to maintain covers at a construction site or are to be recycled or applied to a beneficial use.

(c) Tires attached to a vehicle are not considered waste tires until they are removed from the vehicle.

(86) "Wetlands" means those areas that are inundated or saturated by surface or ~~ground water~~ groundwater at a frequency and duration sufficient to support, and under normal conditions do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(87) "Yard waste" means vegetative matter resulting from landscaping, land maintenance, and land clearing operations including grass clippings, prunings, and other discarded material generated from yards, gardens, parks, and similar types of facilities. Yard waste does not include garbage, paper, plastic, processed wood, sludge, septage, or manure.

#### **R315-301-4. Prohibition of Illegal Disposal or Incineration of Solid Waste.**

(1) No person shall incinerate, burn, or otherwise dispose of any solid waste in any place except at a facility which is in compliance with the requirements of Rules R315-301 through R315-320 and other applicable rules.

(2) ~~When~~ If any solid waste is disposed in a manner not in compliance with the requirements of Rules R315-301 through R315-320, or other applicable rules, the property owner of the disposal site or the person responsible for the illegal disposal or both:

(a) shall remove the solid waste from the illegal disposal site to a permitted solid waste disposal facility and, if necessary, shall remediate the site; or

(b) shall apply for a permit ~~form~~ from the ~~D~~ director and shall meet ~~all~~ each of the following:

(i) submit the required permit application in the time frame specified by the ~~D~~ director and respond promptly to ~~all~~ any requests for information from the ~~D~~ director related to the permit application;

(ii) shall immediately meet ~~all of~~ the operational monitoring and waste handling criteria of Rules R315-301 through R315-320; and

(iii) shall follow the requirements of ~~Rule~~ Subsection R315-301-4(2)(a) if a permit is not granted.

(3) Any person disposing of solid waste in a manner not in compliance with the requirements of Rules R315-301 through R315-320, or other applicable rules, may be subject to enforcement action in addition to meeting the requirements of ~~Rule~~ Subsection R315-301-4(2).

(4) ~~When~~ If deposition or disposal of the following materials does not cause a hazard to human health or the environment or cause a public nuisance, the requirements of Rules R315-301 through R315-320 do not apply to:

(a) inert waste used as fill material;

(b) the disposal of mine tailings and overburden at the site of generation;

(c) the disposal of vegetative material generated as a result of land clearing;~~or~~

(d) the disposal of vegetative agricultural waste~~or~~;

(e) the following waste if managed at a facility that is solely for recycling, reuse, or reprocessing:

(i) fly ash waste;

(ii) bottom ash waste;

(iii) slag waste;

(iv) flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels; or

(f) the following wastes if disposal occurs at an on-site location owned and operated by the generator:

(i) waste from the extraction, beneficiation, and processing of ores and minerals listed in Subsection R315-261-4(b)(7)(ii); or

(ii) cement kiln dust.

**KEY: self-inspections, solid waste management, solid waste disposal**

**Date of Last Change: 2024~~November 9, 2018~~**

**Notice of Continuation: November 30, 2022**

**Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-108; 19-6-109; 40 CFR 258**

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

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R315-302</b>	<b>Filing ID:</b> <b>56181</b>
--------------------------------	-----------------	-----------------------------------

#### **Agency Information**

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Waste Management and Radiation Control, Waste Management	
<b>Room number:</b>	2nd Floor	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 144880	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4880	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tom Ball	385-454-5574	tball@utah.gov

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

#### **General Information**

##### **2. Rule or section catchline:**

R315-302. Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements

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

The Division of Waste Management and Radiation Control, Waste Management (Division) is amending this rule to clarify rule references, providing clarifying language, and amending rule language in accordance with legislation.

The Division is also correcting typographical and rule formatting errors.

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

Language is being added to Section R315-302-1 as required by H.B. 357 that was passed during the 2013 General Session of the Utah Legislature. This language requires new facilities to conduct and pay for a traffic impact study.

A citation to Subsections R315-302-2(4)(c) and (d) is being added to Subsection R315-302-2(4)(iii) to clarify that these requirements must also be addressed when submitting an annual report.

Language is being added to Subsection R315-302-2(4) as required by H.B. 115 that was passed during the 2017 General Session of the Utah Legislature. This language requires facilities that treat, transfer, incinerate, or dispose of solid waste to submit quarterly reports and to pay fees.

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

It is not anticipated that there will be any cost or savings to the state budget based on this amendment. It is not anticipated that the state will be seeking a permit for a facility that would require a traffic impact study or road improvements resulting from a study.

The cost of reviewing any traffic impact studies and quarterly reports is covered by the current agency budget.

**B) Local governments:**

There are no cost or savings for existing local government facilities due to this rule amendment.

The cost to local governments that may develop new solid waste disposal facilities in the future will be determined by the number of access roads to the facility, the services enlisted to evaluate traffic impacts, and the cost of any road improvements. Due to the number of variables involved it is not possible to estimate these costs.

The agency does not have any current applications from local governments that would be affected by this amendment and does not know when or if any applications for new facilities will be submitted.

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

There are no costs or savings for existing small businesses due to this amendment.

The cost to small businesses that may develop new solid waste disposal facilities in the future will be determined by the number of access roads to the facility, the services enlisted to evaluate traffic impacts, and the cost of any road improvements. Due to the number of variables involved it is not possible to estimate these costs.

The agency is currently reviewing an application from a small business. However, it is unknown whether the business will continue to seek a permit because there are outstanding requests for additional information from the small business with no response in more than two years. Therefore, the agency is unable to estimate the costs of the traffic impact study on this business.

The agency does not have any other applications from small businesses that would be affected by this amendment and does not know when or if any applications for new facilities will be submitted.

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

There are no costs or savings for existing non-small business facilities due to this rule amendment.

The cost to non-small businesses that may decide to develop new solid waste disposal facilities in the future will be determined by the number of access roads to the facility, the services enlisted to evaluate traffic impacts, and the cost of any road improvements. Due to the number of variables involved it is not possible to estimate these costs.

The agency does not have any current applications from non-small businesses that would be affected by this amendment and does not know when or if any applications for new facilities will be submitted.

**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 costs or savings for existing facilities operated by persons other than small businesses, non-small businesses, state, or local government entities due to this rule amendment.

The cost to persons other than small businesses, non-small businesses, state, or local government entities that may decide to develop new solid waste disposal facilities in the future will be determined by the number of access roads to the facility, the services enlisted to evaluate traffic impacts, and the cost of any road improvements. Due to

the number of variables involved it is not possible to estimate these costs.

The agency does not have any current applications from persons other than small businesses, non-small businesses, state, or local government entities that would be affected by this amendment and does not know when or if any applications for new facilities will be submitted.

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

There will be no changes in costs for existing facilities.

For a new facility, costs will be determined by the number of access roads to the facility, the services enlisted to evaluate traffic impacts, and the cost of any road improvements. These costs will vary on a case-by-case basis.

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

**Regulatory Impact Table**

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

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

The Executive Director of the Department of Environmental Quality, Kim Shelley, 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 19-6-104	Section 19-6-105	Section 19-6-108
Section 19-6-109		

**Public Notice Information**

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/15/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Division Director	<b>Date:</b>	11/09/2023
---	--------------------------------------	--------------	------------

**R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.**

**R315-302. Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements.**

**R315-302-1. Location Standards for Disposal Facilities.**

(1) Applicability.

(a) These standards apply to each new solid waste disposal facility and any existing solid waste disposal facility seeking facility expansion, including:

- (i) Class I, II, and V Landfills;
- (ii) Class III Landfills as specified in Rule R315-304;
- (iii) Class IV and VI Landfills as specified in Rule R315-

305;

- (iv) piles that are to be closed as landfills; and
- (v) [H]incinerators as specified in Rule R315-306.

(b) These standards, except for Subsection R315-302-1(2)(f) or unless otherwise noted, do not apply to:

- (i) an existing facility;
- (ii) a transfer station or a drop box facility;
- (iii) a pile used for storage;
- (iv) composting or utilization of sludge or other solid waste

on land; or

## NOTICES OF PROPOSED RULES

(v) hazardous waste disposal sites regulated by Rules R315-260 through R315-266, R315-268, R315-270, R315-273 and Rule R315-101.

(2) Location Standards. Each applicable solid waste facility shall be subject to the following location standards.

(a) Land Use Compatibility. No new facility shall be located within:

(i) one thousand feet of a:

(A) national, state, county, or city park, monument, or recreation area;

(B) designated wilderness or wilderness study area;

(C) wild and scenic river area; or

(D) stream, lake, or reservoir;

(ii) ecologically and scientifically significant natural areas, including wildlife management areas and habitat for threatened or endangered species as designated pursuant to the Endangered Species Act of 1982;

(iii) one-fourth mile of:

(A) existing permanent dwellings, residential areas, and other incompatible structures such as schools or churches unless otherwise allowed by local zoning or ordinance; and

(B) historic structures or properties listed or eligible to be listed in the State or National Register of Historic Places;

(iv) ten thousand feet of any airport runway end used by turbojet aircraft or within 5,000 feet of any airport runway end used by only piston-type aircraft unless the owner or operator demonstrates that the facility design and operation will not increase the likelihood of bird~~[/]~~ or aircraft collisions. ~~[Every]~~Each new and existing disposal facility is subject to this requirement.

(A) If a new landfill or a lateral expansion of an existing landfill is located within six miles of an airport runway end, the owner or operator ~~[must]~~shall notify the affected airport and the Federal Aviation Administration; or

(v) areas with respect to archeological sites that would violate Section 9-8-404.

(b) Geology.

(i) No new facility or lateral expansion of an existing facility shall be located in a subsidence area, a dam failure flood area, above an underground mine, above a salt dome, above a salt bed, or on or adjacent to geologic features ~~[which]~~that could compromise the structural integrity of the facility.

(ii) Holocene Fault Areas. A new facility or a lateral expansion~~[s]~~ of an existing facility ~~[shall]~~may not be located within 200 feet of a Holocene fault unless the owner or operator demonstrates to the ~~[D]~~director that an alternative setback distance of less than 200 feet will prevent damage to the structural integrity of the unit and will be protective of human health and the environment.

(iii) Seismic Impact Zones. A new facility or a lateral expansion of an existing facility ~~[shall]~~may not be located in seismic impact zones unless the owner or operator demonstrates to the satisfaction of the ~~[D]~~director that ~~[all]~~any containment structures, including liners, leachate collection systems, and surface water control systems, are designed to resist the maximum horizontal acceleration in lithified earth material for the site.

(iv) Unstable Areas. The owner or operator of an existing facility, a lateral expansion of an existing facility, or a new facility located in an unstable area ~~[must]~~shall demonstrate to the satisfaction of the ~~[D]~~director that engineering measures have been incorporated into the facility design to ensure that the integrity of the structural components of the facility will not be disrupted. The owner or operator ~~[must]~~shall consider the following factors when determining whether an area is unstable:

(A) on-site or local soil conditions that may result in significant differential settling;

(B) on-site or local geologic or geomorphologic features; and

(C) on-site or local human-made features or events, both surface and subsurface.

(c) Surface Water.

(i) No new facility or lateral expansion of an existing facility shall be located on any public land that is being used by a public water system for water shed control for municipal drinking water purposes.

(ii) Floodplains. No new or existing facility shall be located in a floodplain unless the owner or operator demonstrates to the ~~[D]~~director that the unit will not restrict the flow of the 100-year flood, reduce the temporary water storage capacity of the floodplain, or result in a washout of solid waste so as to pose a hazard to human health or the environment.

(d) Wetlands. No new facility or lateral expansion of an existing facility shall be located in wetlands unless the owner or operator demonstrates to the ~~[D]~~director that:

(i) where applicable under section 404 of the Clean Water Act or applicable ~~[S]~~state wetlands laws, the presumption that a practicable alternative to the proposed landfill is available ~~[which]~~that does not involve wetlands is clearly rebutted;

(ii) the unit will not violate any applicable state water quality standard or section 307 of the Clean Water Act;

(iii) the unit will not jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of a critical habitat protected under the Endangered Species Act of 1973;

(iv) the unit will not cause or contribute to significant degradation of wetlands. The owner or operator ~~[must]~~shall demonstrate the integrity of the unit and its ability to protect ecological resources by addressing the following factors:

(A) erosion, stability, and migration potential of native wetland soils, muds, and deposits used to support the unit;

(B) erosion, stability, and migration potential of dredged and fill materials used to support the unit;

(C) the volume and chemical nature of the waste managed in the unit;

(D) impacts on fish, wildlife, and other aquatic resources and their habitat from release of the solid waste;

(E) the potential effects of catastrophic release of waste to the wetland and the resulting impacts on the environment; and

(F) any additional factors, as necessary, to demonstrate that ecological resources in the wetland are sufficiently protected;

(v) to the extent required under section 404 of the Clean Water Act or applicable state wetlands laws, steps have been taken to ~~[attempt]~~try to achieve no net loss of wetlands, as defined by acreage and function, by first avoiding impacts to wetlands to the maximum extent practicable as required by Subsection R315-302-1(2)(d)(i), then minimizing unavoidable impacts to the maximum extent practicable, and finally offsetting remaining unavoidable wetland impacts through ~~[all]~~any appropriate and practicable compensatory mitigation actions, ~~[(e.g.) for example,~~ restoration of existing degraded wetlands or creation of man-made wetlands~~]]~~; and

(vi) sufficient information is available to make a reasonable determination with respect to these demonstrations.

(e) ~~[Ground Water]~~Groundwater.

(i) No new facility or lateral expansion of an existing facility shall be located at a site:

(A) where the bottom of the lowest liner is less than five feet above the historical high level of ~~[ground-water]~~groundwater; or

(B) for a landfill that is not required to install a liner, the lowest level of waste ~~[must]~~shall be at least ten feet above the historical high level of ~~[ground-water]~~groundwater.

(C) If the aquifer beneath a landfill contains ~~[ground-water]~~groundwater ~~[which]~~that has a Total Dissolved Solids (TDS) of 10,000 mg/l or greater and the landfill is constructed with a composite liner, the bottom of the lowest liner may be less than five feet above the historical high level of the ~~[ground-water]~~groundwater.

(ii) No new facility shall be located over a sole source aquifer as designated in 40 CFR 149.

(iii) No new facility shall be located over groundwater classed as IB under Section R317-6-3.3.

(iv) Unless ~~[all]~~each unit[s] of the proposed facility ~~[are]~~is constructed with a composite liner or other equivalent design approved by the ~~[D]~~director:

(A) a new facility located above any aquifer containing ~~[ground-water]~~groundwater ~~[which]~~that has a TDS content below 1,000 mg/l ~~[which]~~that does not exceed applicable ~~[ground-water]~~groundwater quality standards for any contaminant is permitted only where the depth to ~~[ground-water]~~groundwater is greater than 100 feet; or

(B) a new facility located above any aquifer containing ~~[ground-water]~~groundwater ~~[which]~~that has a TDS content between 1,000 and 3,000 mg/l and does not exceed applicable ~~[ground-water]~~groundwater quality standards for any contaminant is permitted only where the depth to ~~[ground-water]~~groundwater is 50 feet or greater.

(C) The applicant for the proposed facility will make the demonstration of ~~[ground-water]~~groundwater quality necessary to determine the appropriate aquifer classification.

(v) No new facility shall be located in designated drinking water source protection areas or, if no source protection area is designated, within a distance to existing drinking water wells or springs for public water supplies of 250 days ~~[ground-water]~~groundwater travel time. This requirement does not include on-site operation wells. The applicant for the proposed facility will make the demonstration, acceptable to the ~~[D]~~director, of hydraulic conductivity and other information necessary to determine the 250 days ~~[ground-water]~~groundwater travel distance.

(vi) ~~[Ground-Water]~~Groundwater Alternative.

(A) Subject to the ~~[ground-water]~~groundwater performance standard stated in Subsection R315-303-2(1), if a solid waste disposal facility is to be located over an area where the ~~[ground-water]~~groundwater has a TDS of 10,000 mg/l or greater, or where there is an extreme depth to ~~[ground-water]~~groundwater, or where there is a natural impermeable barrier above the ~~[ground-water]~~groundwater, or where there is no ~~[ground-water]~~groundwater, the ~~[D]~~director may approve, on a site specific basis, an alternative ~~[ground-water]~~groundwater monitoring system at the facility or may wave the ~~[ground-water]~~groundwater monitoring requirement. If ~~[ground-water]~~groundwater monitoring is waved the owner or operator shall make the demonstration stated in Subsection R315-308-1(3).

(B) A facility that has a ~~[ground-water]~~groundwater monitoring alternative approved under Subsection R315-302-1(2)(e)(vi) is subject to the ~~[ground-water]~~groundwater quality standards specified in Subsection R315-303-2(1) and the approved alternative shall be revoked by the ~~[D]~~director if the operation of the facility impacts ~~[ground-water]~~groundwater.

(f) Historic preservation survey requirement.

(i) Each new facility or expansion of an existing facility shall:

(A) have a notice of concurrence issued by the state historic preservation officer as provided for in Subsection 9-8-404(3)(a)(i); or

(B) show that the state historic preservation officer did not respond within 30 days to the submittal, to the officer, of an evaluation; or

(C) have received a joint analysis conducted as required by Subsection 9-8-404(2).

(ii) Each existing facility shall, for ~~[all]~~any areas of the site that have not been disturbed:

(A) have a notice of concurrence issued by the state historic preservation officer as provided for in Subsection 9-8-404(3)(a)(i); or

(B) show that the state historic preservation officer did not respond within 30 days to the submittal, to the officer, of an evaluation; or

(C) have received a joint analysis conducted as required by Subsection 9-8-404(2).

(g) Traffic impact study requirement.

(i) For each new facility, the applicant shall pay the costs for review of a traffic impact study, any costs required by the road authority for improvements, and submit a traffic impact study that:

(A) demonstrates that requirements for safety, operation, and the condition of roadways serving the proposed facility meet locally forecasted needs;

(B) has been reviewed and approved by the Department of Transportation, a local highway authority, or a county or municipality road authority, whichever has jurisdiction over each road serving the proposed facility; and

(C) includes any maintenance agreement with a road authority in writing.

(3) Exemptions. Exemptions from the location standards with respect to airports, floodplains, wetlands, fault areas, seismic impact zones, and unstable areas cannot be granted. Exemptions from other location standards of Section R315-302-1 may be granted by the ~~[D]~~director on a site specific basis if it is determined that the exemption will cause no adverse impacts to human health or the environment.

(a) No exemption may be granted without application to the ~~[D]~~director.

(b) If an exemption is granted, a facility may be required to have a more stringent design, construction, monitoring program, or operational practice to protect human health or the environment.

(c) ~~[All]~~Each application[s] for an exemption[s] shall meet the conditions of Section R315-311-3 pertaining to public notice and comment period.

### **R315-302-2. General Facility Requirements.**

(1) Applicability.

(a) Each new and existing solid waste facility ~~that is~~~~[for which a permit is]~~ required by Section R315-310-1 ~~to get a permit,~~ shall meet the applicable requirements of Section R315-302-2 or portions of Section R315-302-2 as required by Rule[s] R315-304, R315-305, R315-306, R315-307, R315-312, R315-313, or R315-314.

(b) Any facility ~~[which]~~that stores waste in piles that is subject to the requirements of Rule R315-314 shall meet the applicable requirements of Section R315-302-2.

(c) Any recycling facility or composting facility subject to the standards of Rule R315-312 shall submit a plan of operation, to



## NOTICES OF PROPOSED RULES

the [D]director, that demonstrates compliance with the applicable standards of Section R315-302-2 and Rule R315-312.

(i) The submitted plan of operation shall be reviewed to determine compliance with the applicable standards of Section R315-302-2 and Rule R315-312.

(ii) ~~[Prior to]~~Before the acceptance of waste or recyclable material or beginning operations at the facility, the owner or operator of a recycling or composting facility ~~[must]~~shall receive notice from the [D]director that the plan of operation meets the applicable standards of Section R315-302-2 and Rule R315-312.

(d) Any transfer station subject to the standards of Rule R315-313 shall submit a plan of operation to the [D]director that demonstrates compliance with the applicable standards of Section R315-302-2 and Rule R315-313.

(i) The submitted plan of operation shall be reviewed to determine compliance with the applicable standards of Section R315-302-2 and Rule R315-313.

(ii) ~~[Prior to]~~Before the acceptance of waste or beginning operations at the facility, the owner or operator of a transfer station facility ~~[must]~~shall receive notice from the [D]director that the plan of operation meets the applicable standards of Section R315-302-2 and Rule R315-313.

(e) The requirements of Section R315-302-2 apply to industrial solid waste facilities as specified in Rule R315-304.

(f) A solid waste incinerator facility that meets the quantity limitation of Subsection R315-306-3(1)(b) shall meet the reporting requirements of Subsection R315-302-2(4).

(2) Plan of Operation. Each owner or operator shall develop, keep on file, and abide by a plan of operation approved by the [D]director. The plan shall describe the facility's operation and shall convey to site operating personnel the concept of operation intended by the designer. The plan of operation shall be available for inspection at the request of the [D]director or ~~[his]~~the director's authorized representative. The facility ~~[must]~~shall be operated in accordance with the plan. Each plan of operation shall include:

(a) an intended schedule of construction. Facility permits will be reviewed by the [D]director no later than 18 months after the permit is issued and periodically thereafter, to determine if the schedule of construction is reasonably being followed. Failure to comply with the schedule of construction may result in revocation of the permit;

(b) a description of on-site solid waste handling procedures during the active life of the facility;

(c) a schedule for conducting inspections and monitoring for the facility;

(d) contingency plans in the event of a fire or explosion;

(e) corrective action programs to be initiated if ~~[ground water]~~groundwater is contaminated;

(f) contingency plans for other releases, ~~[e.g.]~~for example, release of explosive gases or failure of run-off containment system;

(g) a plan to control fugitive dust generated from roads, construction, general operations, and covering the waste;

(h) a plan to control wind-blown litter that includes equipment and methods to contain litter, including a schedule and methods to collect scattered litter in a timely manner;

(i) a description of maintenance of installed equipment including leachate and gas collection systems, and ~~[ground water]~~groundwater monitoring systems;

(j) procedures for excluding the receipt of prohibited hazardous waste or prohibited waste containing PCBs;

(k) procedures for controlling disease vectors;

(l) a plan for an alternative waste handling or disposal system during periods when the solid waste facility is not able to dispose of solid waste, including procedures to be followed in case of equipment breakdown;

(m) closure and post-closure care plans;

(n) cost estimates and financial assurance as required by Subsection R315-309-2(3);

(o) a landfill operations training plan for site operators; and

(p) other information pertaining to the plan of operation as required by the [D]director.

(3) Recordkeeping. Each owner or operator shall maintain and keep, on-site or at a location approved by the [D]director, the following permanent records:

(a) a daily operating record, to be completed at the end of each day of operation, that shall contain:

(i) the weights, in tons, or volumes, in cubic yards, of solid waste received each day, number of vehicles entering, and if available, the type of wastes received each day;

(ii) deviations from the approved plan of operation;

(iii) training and notification procedures;

(iv) results of ~~[ground water]~~groundwater and gas monitoring that may be required; and

(v) an inspection log or summary; and

(b) other records to include:

(i) documentation of any demonstration made with respect to any location standard or exemption;

(ii) any design documentation for the placement or recirculation of leachate or gas condensate into the landfill as allowed by Subsection R315-303-3(2)(b);

(iii) closure and post-closure care plans as required by Subsections R315-302-3(4) and R315-302-3(7);

(iv) cost estimates and financial assurance documentation as required by Subsection R315-309-2(3);

(v) any information demonstrating compliance with Class II Landfill requirements if applicable; and

(vi) other information pertaining to operation, maintenance, monitoring, or inspections as may be required by the [D]director.

(4) Reporting.

(a) Each owner or operator of any facility, including a facility performing post-closure care, shall prepare an annual report and place the report in the facility's operating record. The owner or operator of the facility shall submit a copy of the annual report to the [D]director by March 1 of each year for the most recent calendar year or fiscal year of facility operation.

(b) The annual report shall cover facility activities during the previous year and ~~[must]~~shall include, at a minimum, the following information:

(i) name and address of the facility;

(ii) calendar year covered by the report;

(iii) annual quantity, in tons, of solid waste received, according to Subsections R315-302-2(4)(c) and R315-302-2(4)(d);

(iv) the annual update of the required financial assurances mechanism pursuant to Subsection R315-309-2(2);

(v) results of ~~[ground water]~~groundwater monitoring and gas monitoring; and

(vi) training programs or procedures completed.

(c) Since the amount of waste received must be reported in tons, the following conversion factors shall be used for waste received that is not weighted on scales.

(i) Municipal solid waste:



- (A) Uncompacted - 0.15 tons per cubic yard; and
- (B) Compacted, ~~[(if) delivered in a compaction vehicle]~~, - 0.30 tons per cubic yard.
- (ii) Construction~~[f]~~ or demolition waste - 0.50 tons per cubic yard.
- (iii) Municipal incinerator ash - 0.75 tons per cubic yard.
- (iv) Other ash - 1.10 tons per cubic yard.
- (v) Waste delivered by a resident in a pickup truck or a single axle trailer - 0.25 tons per vehicle.
- (vi) Industrial waste - a reasonable conversion factor, based on site specific data, developed by the owner or operator of the facility.

(d) If an owner or operator of a municipal landfill or a construction~~[f]~~ or demolition landfill has documented conversion factors that are based on facility specific data, these conversion factors may be used to report the amounts of waste when approved by the ~~[D]~~director.

(e) Each owner or operator of a facility that treats, transfers, incinerates, or disposes of solid waste, shall submit a quarterly report by the 15<sup>th</sup> day of the month following the end of each quarter, ending March 31<sup>st</sup>, June 30<sup>th</sup>, September 30<sup>th</sup>, and December 31<sup>st</sup>.

(i) The quarterly report shall include:

(A) the name and address of the facility; and

(B) the quarterly quantity, in tons, of solid waste received, according to Subsections R315-302-2(4)(c) and R315-302-2(4)(d).

(ii) Each owner or operator shall pay fees established in Subsection 19-6-119(6) upon submittal of the quarterly report, except for:

(A) a person who treats, transfers, stores, or disposes of solid waste from the extraction, beneficiation, and processing of ores and minerals on the site where the waste was generated.

(5) Inspections.

(a) The owner or operator shall inspect the facility to prevent malfunctions and deterioration, operator errors, and discharges ~~[which] that~~ may cause or lead to the release of wastes to the environment or to a threat to human health. The owner or operator ~~[must] shall~~ conduct these inspections with sufficient frequency, no less than quarterly, to identify problems in time to correct them before they harm human health or the environment. The owner or operator shall keep an inspection log or summary including at least the date and time of inspection, the printed name and handwritten signature of the inspector, a notation of observations made, and the date and nature of any repairs or corrective action. The log or summary ~~[must] shall~~ be kept at the facility or other convenient location if permanent office facilities are not on-site, for at least three years from the date of inspection. Inspection records shall be available to the ~~[D]~~director or ~~[his]~~the director's authorized representative upon request.

(b) The ~~[D]~~director or any ~~[duly-]~~authorized officer, employee, or representative of the ~~[D]~~director may, at any reasonable time and upon presentation of appropriate credentials, enter any solid waste facility and inspect the property, records, monitoring systems, activities and practices, or solid waste being handled for ~~[the purpose of]~~ascertaining compliance with Rules R315-301 through R315-320 and the approved plan of operation for the facility.

(i) The inspector may conduct monitoring or testing, or collect samples for testing, to verify the accuracy of information submitted by the owner or operator or to ensure that the owner or operator is in compliance. The owner or operator may request split samples and analysis parameters on any samples collected by the inspector.

(ii) The inspector may use photographic equipment, video camera, electronic recording device, or any other reasonable means to record information during any inspection.

(iii) The results of any inspection shall be furnished promptly to the owner or operator of the facility.

(6) Recording with the County Recorder.

~~[Not later than]~~Before 60 days after certification of closure, the owner or operator of a solid waste disposal facility shall:

(a) submit plats and a statement of fact concerning the location of any disposal site to the county recorder to be recorded as part of the record of title; and

(b) submit proof of record of title filing to the ~~[D]~~director.

**KEY: solid waste management, waste disposal, solid waste permit**

**Date of Last Change: 2024[August 1, 2017]**

**Notice of Continuation: November 30, 2022**

**Authorizing, and Implemented or Interpreted Law: 19-6-104; 19-6-105; 19-6-108; 19-6-109; 40 CFR 258**

#### NOTICE OF PROPOSED RULE

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R315-304</b>	<b>Filing ID:</b> <b>56182</b>
--------------------------------	-----------------	-----------------------------------

#### Agency Information

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Waste Management and Radiation Control, Waste Management	
<b>Room number:</b>	2nd Floor	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 144880	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4880	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tom Ball	385-454-5574	tball@utah.gov

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

#### General Information

##### 2. Rule or section catchline:

R315-304. Industrial Solid Waste Landfill Requirements

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

The Division of Waste Management and Radiation Control, Waste Management (Division) is amending this rule to clarify which wastes are exempt from the

requirements of Rule R315-304 and update a definition with the proper rule citations.

The Division is also correcting typographical and rule formatting errors.

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

Subsection R315-304-3(2) is being amended so that it more clearly defines what waste may be accepted at a Class IIIb landfill. Part of this clarification includes updating the rule citations to Section R315-261-4.

### Fiscal Information

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

##### A) State budget:

Because these amendments do not add or remove any requirements from the rules, it is not anticipated that these rule amendments will result in any cost or savings to the budgets of any state agencies.

##### B) Local governments:

Because these amendments do not add or remove any requirements from the rules, it is not anticipated that these rule amendments will result in any cost or savings to any local governments.

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

Because these amendments do not add or remove any requirements from the rules, it is not anticipated that there will be any cost or savings to any small businesses that must comply with these rules due to the amendments.

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

Because these amendments do not add or remove any requirements from the rules, it is not anticipated that there will be any cost or savings to any non-small businesses that must comply with these rules due to 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**):

Because these amendments do not add or remove any requirements from the rules, it is not anticipated that there will be any cost or savings to any persons other than small businesses, non-small businesses, state or local government entities that must comply with these rules due to the amendments.

#### 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 add clarification to requirements that already exist for any persons who must comply with these rules.

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

##### Regulatory Impact Table

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

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

The Executive Director of the Department of Environmental Quality, Kim Shelley, 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 19-6-105	Section 19-6-108	
------------------	------------------	--

**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:** 01/03/2024

**9. This rule change MAY become effective on:** 01/15/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Division Director	<b>Date:</b>	11/09/2023
---	--------------------------------------	--------------	------------

**R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.**

**R315-304. Industrial Solid Waste Landfill Requirements.**

**R315-304-3. Definitions.**

Terms used in Rule R315-304 are defined in Section R315-301-2. In addition~~[-for the purpose of Rule R315-304,]~~ the following definitions apply to Rule R315-304.

(1) "Class IIIa Landfill" means a landfill as defined by Subsection R315-301-2(9) that may accept:

(a) any nonhazardous industrial waste;

(b) waste that is exempt from hazardous waste ~~[regulations]~~rules under Section R315-261-4; or

(c) very small quantity generator hazardous waste as defined by Section R315-260-10.

(2) "Class IIIb Landfill" means a landfill as defined by Subsection R315-301-2(9) that~~[-may accept any nonhazardous industrial solid waste except]:~~

(a) ~~may only accept the following, unless otherwise approved by the director:~~

~~[(a)](i) solid waste that is exempt from hazardous waste [regulations]rules under [Section R315-2-4, excluding]Subsections R315-261-4(b)(3), (4), R315-261-4(b)(5), and R315-261-4(b)(7)[, and (14), unless approved by the Director]; or~~

~~(ii) nonhazardous industrial solid waste not listed in Subsection R315-261-4(b); and~~

(b) ~~may not accept~~ very small quantity generator hazardous waste as defined by Section R315-260-10.

**R315-304-4. Industrial Landfill Location Standards.**

(1) Class IIIa Landfills.

(a) A new Class IIIa Landfill shall meet the location standards of Subsection R315-302-1(2).

(b) A new Class IIIa Landfill that is proposed on the site of generation of the industrial solid waste or a lateral expansion of an existing Class IIIa Landfill, shall meet the location standards of Subsections R315-302-1(2)(b), R315-302-1(2)(c), R315-302-

1(2)(d), and R315-302-1(2)(e) with respect to geology, surface water, wetlands, and ~~[ground water]~~groundwater.

(c) An existing Class IIIa Landfill ~~[shall]~~may not be subject to the location standards of Subsection R315-302-1(2).

(d) An exemption from any location standard of Subsection R315-302-1(2), except the standards for floodplains and wetlands, may be granted by the ~~[D]~~director on a site specific basis if it is determined that the exemption will cause no adverse impacts to human health or the environment.

(i) No exemption may be granted without application to the ~~[D]~~director.

(ii) If an exemption is granted, the landfill may be required to have more stringent design, construction, monitoring program, or operational practice to protect human health or the environment.

(2) Class IIIb Landfills.

(a) A new Class IIIb ~~[L]~~Landfill or a lateral expansion of an existing Class IIIb Landfill shall be subject to the following location standards:

(i) the standards with respect to floodplains as specified in Subsection R315-302-1(2)(c)(ii);

(ii) the standards with respect to wetlands as specified in Subsection R315-302-1(2)(d);

(iii) the standards with respect to ~~[ground water]~~groundwater as specified in Subsection R315-302-1(2)(e)(i)(B); and

(iv) the requirements of Subsection R315-302-1(2)(f).

(b) For a lateral expansion of an existing Class IIIb Landfill, an exemption from any location standard of Subsection R315-304-4(2)(a) may be granted by the ~~[D]~~director on a site specific basis if it is determined that the exemption will cause no adverse impacts to human health or the environment.

(i) No exemption may be granted without application to the ~~[D]~~director.

(ii) If an exemption is granted, the landfill may be required to have more stringent design, construction, monitoring, or operation than the minimum described in Rule R315-304 to protect human health or the environment.

(c) An existing Class IIIb Landfill ~~[shall]~~may not be subject to the location standards of Subsection R315-304-4(2)(a).

**KEY: solid waste management, solid waste disposal**

**Date of Last Change: 2024[August 31, 2017]**

**Notice of Continuation: November 30, 2022**

**Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-108; 40 CFR 257**

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R315-306</b>	<b>Filing ID:</b> <b>56183</b>
--------------------------------	-----------------	-----------------------------------

**Agency Information**

<b>1. Department:</b>	Environmental Quality
<b>Agency:</b>	Waste Management and Radiation Control, Waste Management
<b>Room number:</b>	2nd Floor
<b>Building:</b>	MASOB

<b>Street address:</b>	195 N 1950 W.	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 144880	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4880	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tom Ball	385-454-5574	tball@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R315-306. Incinerator Standards
<b>3. Purpose of the new rule or reason for the change:</b>
The Division of Waste Management and Radiation Control, Waste Management (Division) is amending this rule language in accordance with legislation.
The Division is also correcting typographical and rule formatting errors.
<b>4. Summary of the new rule or change:</b>
Language is being added to Subsections R315-306-2(2)(a) and R315-306-3(2)(a) as required by H.B. 196 that was passed during the 2014 General Session of the Utah Legislature.
This language prohibits a new incinerator facility from incinerating infectious waste and chemotherapeutic agent waste within a two-mile radius of an area zoned residential.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There is no cost or savings to the state budget due to this rule amendment because the state does not own or operate an incinerator.
<b>B) Local governments:</b>
There is no cost or savings to local government entities that own or operate incinerators because the amendment only affects new incinerator facilities.
Additionally, there is no cost or savings to any local government entities who choose to own and operate a new incinerator facility because the amended rule only

prohibits the incineration of certain wastes in certain areas. Those entities that would like to own and operate a new incineration facility would need to plan accordingly.

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

There is no cost or savings to small businesses that own or operate incinerators because the amendment only affects new incinerator facilities.

Additionally, there is no cost or savings to any small businesses that choose to own and operate a new incinerator facility because the amended rule only prohibits the incineration of certain wastes in certain areas. Those small businesses that would like to own and operate a new incineration facility would need to plan accordingly.

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

There is no cost or savings to non-small businesses that own or operate incinerators because the amendment only affects new incinerator facilities.

Additionally, there is no cost or savings to any non-small businesses that choose to own and operate a new incinerator facility because the amended rule only prohibits the incineration of certain wastes in certain areas. Those non-small businesses that would like to own and operate a new incineration facility would need to plan accordingly.

**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 cost or savings to persons other than small businesses, non-small businesses, state, or local government entities that own or operate incinerators because the amendment only affects new incinerator facilities.

Additionally, there is no cost or savings to any persons other than small businesses, non-small businesses, state, or local government entities that choose to own and operate a new incinerator facility because the amended rule only prohibits the incineration of certain wastes in certain areas. Those businesses that would like to own and operate a new incineration facility would need to plan accordingly.

**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 the amended rule does not change any requirements for existing facilities and any person planning to build, own, or operate a new facility would need to plan to comply with the amended 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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Executive Director of the Department of Environmental Quality, Kim Shelley, 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 19-6-104	Section 19-6-105	Section 19-6-108
------------------	------------------	------------------

=

**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.)

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	01/15/2024
---	------------

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Division Director	<b>Date:</b>	11/09/2023
---	--------------------------------------	--------------	------------

**R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.**

**R315-306. Incinerator Standards.**

**R315-306-2. Requirements for Large Incinerators.**

(1) These standards apply to any incinerator facility designed to incinerate more than ten tons of solid waste per day.

(2) A new incinerator facility shall:

(a) be subject to the location standards of Section R315-302-1 with the exception of [the following] Subsections [R315-302-1(2)(a)(iv), ~~and~~ R315-302-1(2)(a)(v), R315-302-1(2)(e), and R315-302-1(3)]~~;~~ and

(b) not incinerate infectious waste and chemotherapeutic agent waste within a two-mile radius of an area zoned as residential after January 1, 2014.

(3) Each owner or operator of an incinerator facility shall comply with Section R315-302-2. The submitted plan of operation shall also address alternative storage~~;~~ or disposal plans for ~~all~~ any breakdowns that would result in overfilling the storage facility.

(4) The submitted plan of operation shall also contain a written waste identification plan ~~which~~ that shall include identification of the specific waste streams to be handled by the facility, generator waste analysis requirements and procedures, waste verification procedures at the facility, generator certification of wastes shipped as being non~~-~~hazardous, and record keeping procedures, including a detailed operating record.

(5) Each incinerator facility shall be surrounded by a fence, trees, shrubbery, or natural features so as to control access and be screened from the view of immediately adjacent neighbors, unless the tipping floor is fully enclosed by a building. Each site shall also have an adequate buffer zone of at least 50 feet from the operating area to the nearest property line in areas zoned residential to minimize noise and dust nuisances.

(6) Solid waste shall be stored temporarily in storage compartments, containers, or areas specifically designed to store wastes. Storage of wastes other than in specifically designed compartments, containers, or areas specifically designed to store wastes is prohibited. Equipment and space shall be provided in the storage and charging areas, and elsewhere as needed, to allow periodic cleaning as may be required to maintain the plant in a sanitary and clean condition.

(7) A composite sample of the ash and residues from each incinerator facility shall be taken according to a sampling plan approved by the ~~D~~ director.



## NOTICES OF PROPOSED RULES

(a) The sample shall be analyzed by the ~~[U.S. EPA]~~[SW-846 Test Method 1311]~~[as provided in 40 CFR Part 261, Appendix II, 2000 ed.]~~, Toxic Characteristics Leaching Procedure (TCLP) as revised July 1992 to determine if it is hazardous.

(b) If the ash and residues are found to be nonhazardous, they shall be disposed at a permitted landfill or recycled.

(c) If the ash and residues are found to be hazardous, they shall be disposed in a permitted hazardous waste disposal site.

(8) Each incinerator ~~[must]~~shall be located, designed, constructed, and operated in a manner to comply with appropriate state and local air pollution control authority emission and operating requirements.

(9) An incinerator ~~[must]~~shall collect and treat ~~[all]~~any run-off from the active areas of the site that may result from a 25-year storm event, and divert ~~[all]~~any run-on for the maximum flow of a 25-year storm around the site.

(10) All-weather roads shall be provided from the public highways or roads, to and within the disposal site and shall be designed and maintained to prevent traffic congestion hazards, dust, and noise pollution.

(11) Access to the incinerator site shall be controlled by ~~[means of]~~ a complete perimeter fence or other features and gates ~~[which] that~~ shall be locked when an attendant is not at the gate to prevent unauthorized entry of persons or livestock to the facility.

(12) The plan of operation shall include a training program for new employees and annual review training for ~~[all]~~each employee~~[s]~~ to ensure safe handling of waste and proper operation of the equipment.

(13) Each owner or operator shall post signs at the facility ~~[which indicate]~~that state the name, hours of operation, necessary safety precautions, types of wastes that are prohibited, and any other pertinent information.

(14) Each owner or operator of an incinerator facility shall be required to provide recycling facilities in a manner equivalent to those specified for landfills in Subsection R315-303-4(6).

(15) Each owner or operator of an incinerator facility shall implement a plan to inspect loads or take other steps, as approved by the ~~[D]~~director, to prevent the disposal of prohibited hazardous waste or prohibited waste containing ~~[PCB's]~~PCBs in a manner equivalent to those specified for landfills in Subsection R315-303-4(7).

(16) Each owner or operator shall close its incinerator by removing ~~[all]~~any ash, solid waste, and other residues to a permitted facility.

(17) Each owner or operator of an incinerator facility shall provide financial assurance to cover the costs for closure of the facility that meets the requirements of Rule R315-309.

### R315-306-3. Requirements for Small Incinerators.

(1) Applicability.

(a) These requirements apply to any incinerator designed to incinerate ten tons~~[?]~~ or less~~[?]~~ of solid waste per day and incinerator facilities that incinerate solid waste only from on-site sources.

(b) If an incinerator processes 250 pounds~~[?]~~ or less~~[?]~~ of solid waste per week, the requirements of Section R315-306-3 do not apply and a permit from the ~~[D]~~director is not required but the facility may be regulated by other local, state, or federal requirements.

(2) Requirements.

(a) A new incinerator facility may not incinerate infectious waste and chemotherapeutic waste within a two-mile radius of an area zoned as residential after January 1, 2014.

~~[(a)]~~(b) Each owner and operator of an incinerator facility shall submit a plan of operation to the ~~[D]~~director that meets the requirements of Section R315-302-2.

~~[(b)]~~(c) The submitted plan of operation shall also address:

(i) alternative storage~~[?]~~ or disposal plans for ~~[all]~~any breakdowns that would result in overfilling the storage areas;

(ii) identification of the specific waste streams to be handled by the facility;

(iii) generator waste analysis requirements and procedures;

(iv) waste verification procedures at the facility;

(v) generator certification of wastes shipped as being nonhazardous; and

(vi) recordkeeping procedures, including a detailed operating record.

~~[(c)]~~(d) Solid waste shall be stored temporarily only in storage compartments, containers, or areas specifically designed to store wastes.

(i) Storage of wastes other than in specifically designed compartments, containers, or areas specifically designed to store wastes is prohibited.

(ii) Equipment and space shall be provided in the storage and charging areas, and elsewhere as needed, to allow periodic cleaning as necessary to maintain the plant in a sanitary and clean condition.

~~[(d)]~~(e) Incinerator ash and residues from any incinerator shall be sampled, analyzed, and disposed as specified in Subsection R315-306-2(7).

~~[(e)]~~(f) The owner or operator of the incinerator shall prevent the disposal of prohibited hazardous waste or prohibited waste containing ~~[PCB's]~~PCBs as specified in Subsection R315-306-2(15).

~~[(f)]~~(g) The incinerator ~~[must]~~shall be designed, constructed, and operated in a manner to comply with appropriate state and local air pollution control authority emission and operating requirements.

~~[(g)]~~(h) The plan of operation shall include a training program for new employees and annual review training for ~~[all]~~each applicable employee~~[s]~~ to ensure safe handling of waste and proper operation of the equipment.

~~[(h)]~~(i) The owner or operator of the incinerator shall close the facility by removing ~~[all]~~any solid waste, ash, and other residues to a permitted solid waste disposal facility.

~~[(i)]~~(j) The owner or operator of the incinerator facility shall provide financial assurance to cover the costs for closure of the facility that meets the requirements of Rule R315-309.

### KEY: solid waste management, waste disposal

Date of Last Change: 2024~~[April 25, 2013]~~

Notice of Continuation: November 30, 2022

Authorizing, and Implemented or Interpreted Law: 19-6-104; 19-6-105; 19-6-108

#### NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section  
Number:

R315-309

Filing ID:  
56184

**Agency Information**

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Waste Management and Radiation Control, Waste Management	
<b>Room number:</b>	2nd Floor	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 144880	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4880	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tom Ball	385-454-5574	tball@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R315-309. Financial Assurance
<b>3. Purpose of the new rule or reason for the change:</b>
The Division of Waste Management and Radiation Control, Waste Management (Division) is amending this rule to correct rule references that have changed due to other rule and statute amendments and providing clarifying language.
The Division is also correcting typographical and rule formatting errors.
<b>4. Summary of the new rule or change:</b>
Clarifying language is being added in Subsection R315-309-1(1). The language makes it clear that financial assurance is required for any solid waste facility subject to the requirements of Subsection R315-310(1)(a). There are some approvals such as a plan of operation that are considered a permit by definition but are not routinely subject to financial assurance.
Additional language was added to this rule to give the director of the division some discretion to require financial assurance for other facility types if necessary.
The rule citation to Subsections R315-309-3(6)(b) and (c) was corrected to Subsections R315-309-9(6)(b) and (c).

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
--

**A) State budget:**

There is no cost or savings to the state budget due to this rule amendment because it does not change any rule requirements, only clarifies existing requirements.

There is no cost or savings to local government entities due to this rule amendment because it does not change any rule requirements, only clarifies existing requirements.

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

There is no cost or savings to small businesses due to this rule amendment because it does not change any rule requirements, only clarifies existing requirements.

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

There is no cost or savings to non-small businesses due to this rule amendment because it does not change any rule requirements, only clarifies existing requirements.

**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 cost or savings to persons other than small businesses, non-small businesses, state or local government entities due to this rule amendment because it does not change any rule requirements, only clarifies existing requirements.

**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 add clarification to existing requirements with no fiscal impact.

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

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0



## NOTICES OF PROPOSED RULES

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

## Citation Information

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Section 19-6-105		

## Public Notice Information

<b>8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)</b>	
<b>A) Comments will be accepted until:</b>	01/03/2024
<b>9. This rule change MAY become effective on:</b>	01/15/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

## Agency Authorization Information

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Division Director	<b>Date:</b>	11/09/2023
---	--------------------------------------	--------------	------------

**R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.**
**R315-309. Financial Assurance.**
**R315-309-1. Applicability.**

(1) The owner or operator of any solid waste disposal facility ~~[requiring a permit]~~ subject to the requirements for a permit under Subsection R315-310-1(a), or as otherwise required by the director, shall establish financial assurance sufficient to assure adequate closure, post-closure care, and corrective action, if required, of the facility by compliance with one or more financial assurance mechanisms acceptable to and approved by the ~~[D]~~ director.

(2) Financial assurance is not required for a solid waste disposal facility that is owned or operated by ~~[the State of Utah]~~ this state or the ~~[F]~~ federal government.

(3) Existing Facilities.

(a) An existing facility shall have the financial assurance mechanism in place and effective according to the compliance schedule as established for the facility by the ~~[D]~~ director.

(b) In the case of corrective action, the financial assurance mechanism shall be in place and effective no later than 120 days after the corrective action remedy has been selected.

(4) A new facility or an existing facility seeking lateral expansion shall have the financial assurance mechanism in place and effective before the initial receipt of waste at the facility or the lateral expansion.

**R315-309-8. Local Government Financial Test.**

(1) The terms used in Section R315-309-8 are defined as follows.

(a) "Total revenues" means the revenues from ~~[all]~~ taxes and fees but does not include the proceeds from borrowing or asset sales, excluding revenue from funds managed by local government on behalf of a specific third party.

(b) "Total expenditures" means ~~[all]~~ expenditures excluding capital outlays and debt repayments.

(c) "Cash plus marketable securities" means ~~[all]~~ the cash plus marketable securities held by the local government on the last day of a fiscal year, excluding cash and marketable securities designated to satisfy past obligations such as pensions.

(d) "Debt service" means the amount of principal and interest due on a loan in a given time period, typically the current year.

(2) A local government owner or operator of a solid waste facility may demonstrate financial assurance up to the current cost estimate as required by Subsection R315-309-2(3) for closure and post-closure care and the cost estimate as required by Subsection R315-309-2(5) for corrective action, if required, or up to the amount specified in Subsection R315-309-8(6), ~~[which ever]~~ whichever is less, by meeting the following requirements.

(a) If the local government has outstanding, rated general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or other guarantee, it ~~[must]~~ shall have a current rating of Aaa, Aa, A, or Baa, as issued by Moody's or AAA, AA, A, or BBB, as issued by Standard and Poor's on ~~[such]~~ the general obligation bonds.

(b) If the local government has no outstanding general obligation bonds, the local government shall satisfy each of the following financial ratios based on the local government's most recent audited annual financial statement:

(i) a ratio of cash plus marketable securities to total expenditures greater than or equal to 0.05; and

(ii) a ratio of annual debt service to total expenditures less than or equal to 0.20.

(c) The local government ~~[must]~~shall prepare its financial statements in conformity with Generally Accepted Accounting Principles for governments and have its financial statements audited by an independent certified public accountant.

(d) The local government ~~[must]~~shall place a reference to the closure and post-closure care costs assured through the financial test into the next comprehensive annual financial report and in ~~[every]~~each subsequent comprehensive annual financial report during the time ~~[in which]~~when closure and post-closure care costs are assured through the financial test. A reference to corrective action costs ~~[must]~~shall be placed in the comprehensive annual financial report ~~[not later than]~~before 120 days after the corrective action remedy has been selected. The reference to the closure and post-closure care costs shall contain:

(i) the nature and source of the closure and post-closure care requirements;

(ii) the reported liability at the balance sheet date;

(iii) the estimated total closure and post-closure care costs remaining to be recognized;

(iv) the percentage of landfill capacity used to date; and

(v) the estimated landfill life in years.

(3) A local government is not eligible to assure closure, post-closure care, or corrective action costs at its solid waste disposal facility through the financial test if it:

(a) is currently in default on any outstanding general obligation bonds~~[-]~~; or

(b) has any outstanding general obligation bonds rated lower than Baa as issued by Moody's or BBB as issued by Standard and Poor's; or

(c) has operated at a deficit equal to 5%, or more, of the total annual revenue in each of the past two fiscal years; or

(d) receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant, or appropriate state agency auditing its financial statement. The ~~[D]~~director may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases ~~[where]~~if the ~~[D]~~director ~~[deems]~~considers the qualification insufficient to warrant disallowance of use of the test.

(4) The local government owner or operator ~~[must]~~shall submit the following items to the ~~[D]~~director for approval and place a copy of these items in the operating record of the facility:

(a) a letter signed by the local government's chief financial officer that:

(i) lists ~~[all]~~the current cost estimates covered by a financial test; and

(ii) provides evidence and certifies that the local government meets the requirements of Subsections R315-309-8(2) and R315-309-8(6);

(b) the local government's independently audited year-end financial statements for the latest fiscal year including the unqualified opinion of the auditor, who ~~[must]~~shall be an independent certified public accountant;

(c) a report to the local government from the local government's independent certified public accountant stating the procedures performed and the findings relative to:

(i) the requirements of Subsections R315-309-8(2)(c), ~~[and]~~ R315-309-8(3)(c), and R315-309-8(3)(d); and

(ii) the financial ratios required by Subsection R315-309-8(2)(b), if applicable; and

(d) a copy of the comprehensive annual financial report used to comply with Subsection R315-309-8(2)(d).

(e) The items required by Subsection R315-309-8(4) are to be submitted to the ~~[D]~~director and copies placed in the facility's operating record as follows:

(i) in the case of closure and post-closure care, for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste;

(ii) in the case of closure and post-closure care, for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3)(a); and

(iii) in the case of corrective action, in accordance with the schedule specified in Subsection R315-309-1(3)(b).

(5) A local government ~~[must]~~shall satisfy the requirements of the financial test at the close of each fiscal year.

(a) The items required in Subsection R315-309-8(4) shall be submitted as part of the facility's annual report required by Subsection R315-302-2(4).

(b) If the local government no longer meets the requirements of the local government financial test it shall, within 210 days following the close of the local government's fiscal year:

(i) ~~[obtain]~~get alternative financial assurance that meets the requirements of Subsection R315-309-1(1); and

(ii) submit documentation of the alternative financial assurance to the ~~[D]~~director and place copies of the documentation in the facility's operating record.

(c) The ~~[D]~~director, based on a reasonable belief that the local government may no longer meet the requirements of the local government financial test, may require additional reports of financial condition from the local government at any time. If the ~~[D]~~director finds that the local government no longer meets the requirements of the local government financial test, the local government shall be required to provide alternative financial assurance on a schedule established by the ~~[D]~~director.

(6) The portion of the closure, post-closure, and corrective action costs for which a local government owner or operator may assume under the local government financial test is determined as follows:

(a) If the local government does not assure other environmental obligations through a financial test, it may assure closure, post-closure, and corrective action costs that equal up to 43% of the local government's total annual revenue.

(b) If the local government assures any other environmental obligation through a financial test, it ~~[must]~~shall add those costs to the closure, post-closure, and corrective action costs it seeks to assure by local government financial test. The total that may be assured ~~[must]~~may not exceed 43% of the local government's total annual revenue.

(c) The local government shall ~~[obtain]~~get an alternate financial assurance mechanism for those costs that exceed 43% of the local government's total annual revenue.

(7) Local Government Guarantee.

(a) An owner or operator of a solid waste facility may demonstrate financial assurance for closure, post-closure, and corrective action by ~~[obtaining]~~getting a written guarantee provided by a local government. The local government providing the guarantee shall meet the requirements of the local government financial test in Section R315-309-8 and shall comply with the terms of the written guarantee as specified in Subsections R315-309-8(7)(b) and R315-309-8(7)(c).

(b) The guarantee ~~[must]~~shall be effective for closure and post-closure care:

(i) for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste;

(ii) for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3)(a); and

(iii) for corrective action, in accordance with the schedule specified in Subsection R315-309-1(3)(b).

(c) The guarantee shall provide that if the owner or operator fails to perform closure, post-closure care, or corrective action of a facility covered by the guarantee, the guarantor will:

(i) perform, or pay a third party to perform, closure, post-closure, or corrective action as required; or

(ii) establish a fully funded trust fund as specified in Section R315-309-4 in the name of the owner or operator.

(d) The guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the ~~[D]~~director. Cancellation may not occur until 120 days after the date the notice is received by the ~~[D]~~director.

(e) If the guarantee is canceled, the owner or operator shall, within 90 days following the receipt of the cancellation notice:

(i) ~~[obtain]~~get alternate financial assurance that meets the requirements of Subsection R315-309-1(1);

(ii) submit documentation of the alternate financial assurance to the ~~[D]~~director; and

(iii) place copies of the documentation of the alternate financial assurance in the facility's operating record.

(iv) If the owner or operator fails to provide alternate financial assurance within the 90~~[-]~~day period, the guarantor ~~[must]~~shall provide the alternate financial assurance within 120 days following the guarantor's notice of cancellation, submit documentation of the alternate financial assurance to the ~~[D]~~director for review and approval, and place copies of the documentation in the facility's operating record.

### **R315-309-9. Corporate Financial Test.**

(1) The terms used specifically in Section R315-309-9 are defined as follows.

(a) "Assets" means ~~[all]~~the existing and probable future economic benefits ~~[obtained]~~received or controlled by a particular entity.

(b) "Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

(c) "Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

(d) "Current plugging and abandonment cost estimate" means the most recent of the estimates prepared in accordance with 40 CFR 144.62(a), (b), and (c) (2001) which is ~~[adopted and]~~ incorporated by reference.

(e) "Independently audited" means an audit performed by and independent certified public accountant in accordance with generally accepted auditing standards.

(f) "Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

(g) "Net working capital" means current assets minus current liabilities.

(h) "Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

(i) "Tangible net worth" means the tangible assets that remain after deducting liabilities; ~~[such]~~these assets would not include intangibles such as goodwill and rights to patents or royalties.

(2) A corporate owner or operator of a solid waste facility may demonstrate financial assurance up to the current cost estimate as required by Subsection R315-309-2(3) for closure and post-closure care and the cost estimate required by Subsection R315-309-2(5) for corrective action, if required, by meeting the following requirements.

(a) The owner or operator ~~[must]~~shall satisfy one of the following three conditions:

(i) a current rating for its senior unsubordinated debt of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; or

(ii) a ratio of less than 1.5 comparing total liabilities to net worth~~[-]~~; or

(iii) a ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion and amortization, minus \$10,000,000~~[-million]~~, to total liabilities.

(b) The tangible net worth of the owner or operator ~~[must]~~shall be greater than:

(i) the sum of the current closure, post-closure care, and corrective action cost estimates and any other environmental obligation, including guarantees, covered by a financial test plus \$10,000,000~~[-million]~~ except as provided in Subsection R315-309-9(2)(b)(ii); or

(ii) \$10,000,000~~[-million]~~ in net worth plus the amount of any guarantees that have not been recognized as liabilities on the financial statements provided ~~[all of]~~ the current closure, post-closure care, and corrective action costs and any other environmental obligations covered by a financial test are recognized as liabilities on the owner's or operator's audited financial statements, and subject to the approval of the ~~[D]~~director.

(c) The owner or operator ~~[must]~~shall have assets located in the United States amounting to at least the sum of current closure, post-closure care, corrective action cost estimates and any other environmental obligations covered by a financial test.

(3) The owner or operator ~~[must]~~shall place the following items into the facility's operating record and submit a copy of these items to the ~~[D]~~director for approval:

(a) a letter signed by the owner's or operator's chief financial officer that:

(i) lists ~~[all]~~the current cost estimates for closure, post-closure care, corrective action, and any other environmental obligations covered by a financial test; and

(ii) provides evidence demonstrating that the firm meets the conditions of Subsection R315-309-9(2)(a)(i), ~~[or]~~ R315-309-9(2)(a)(ii), or R315-309-9(2)(a)(iii) and Subsections R315-309-9(2)(b) and R315-309-9(2)(c); and

(b) a copy of the independent certified public accountant's unqualified opinion of the owner's or operator's financial statements for the latest completed fiscal year.

(i) To be eligible to use the financial test, the owner's or operator's financial statements ~~[must]~~shall receive an unqualified opinion from the independent certified public accountant.

(ii) The ~~[D]~~director may evaluate qualified opinions on a case-by-case basis and allow use of the financial test ~~[where]~~if the ~~[D]~~director ~~[deems]~~considers the matters which form the basis for the qualification are insufficient to warrant disallowance of the test.

(c) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the owner or operator satisfies Subsection R315-309-9(2)(a)(i) or R315-309-9(2)(a)(ii) that are different from data in the audited financial statements or data filed with the Securities and Exchange Commission, then a special report from the owner's or operator's independent certified public accountant is required. The special report shall:

(i) be based upon an agreed upon procedures engagement in accordance with professional auditing standards;

(ii) describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements;

(iii) describe the findings of that comparison; and

(iv) explain the reasons for any differences.

(d) If the chief financial officer's letter provides a demonstration that the firm has assured environmental obligations as provided in Subsection R315-309-9(2)(b)(ii), then the letter shall include a report from the independent certified public accountant that:

(i) verifies that ~~all~~ each of the environmental obligations covered by a financial test have been recognized as liabilities on the audited financial statements;

(ii) explains how these obligations have been measured and reported; and

(iii) certifies that the tangible net worth of the firm is at least \$10,000,000~~[-million]~~ plus the amount of ~~all~~ the guarantees provided.

(e) The items required by Subsection R315-309-9(3) are to be submitted to the ~~D~~ director and copies placed in the facility's operating record as follows:

(i) in the case of closure and post-closure care, for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste;

(ii) in the case of closure and post-closure care, for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3)(a); and

(iii) in the case of corrective action, in accordance with the schedule specified in Subsection R315-309-1(3)(b).

(4) A firm ~~must~~ shall satisfy the requirements of the financial test at the close of each fiscal year by submitting the items required in Subsection R315-309-9(3) as part of the facility's annual report required by Subsection R315-302-2(4).

(5) If the firm no longer meets the requirements of the corporate financial test it shall, within 120 days following the close of the firm's fiscal year:

(a) ~~obtain~~ get alternative financial assurance that meets the requirements of Subsection R315-309-1(1); and

(b) submit documentation of the alternative financial assurance to the ~~D~~ director and place copies of the documentation in the facility's operating record.

(c) The ~~D~~ director, based on a reasonable belief that the firm may no longer meet the requirements of the corporate financial test, may require additional reports of financial condition from the firm at any time. If the ~~D~~ director finds that the firm no longer meets the requirements of the corporate financial test, firm shall be required to provide alternative financial assurance on a schedule established by the ~~D~~ director.

(6) Corporate Guarantee.

(a) A corporate owner or operator of a solid waste facility may demonstrate financial assurance for closure, post-closure care,

and corrective action by ~~obtaining~~ getting a written guarantee provided by a corporation.

(i) The guarantor ~~must~~ shall be the direct or higher~~-~~ tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a substantial business relationship with the owner or operator.

(ii) The firm shall meet the requirements of the corporate financial test in Section R315-309-9 and shall comply with the terms of the written guarantee as specified in Subsections R315-309-~~3~~9(6)(b) and R315-309-9(6)(c).

(A) A certified copy of the guarantee along with copies of the letter from the guarantor's chief financial officer and accountant's opinions ~~must~~ shall be submitted to the ~~D~~ director and placed in the facility's operating record.

(B) If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter from the guarantor's chief financial officer ~~must~~ shall describe the value received in consideration of the guarantee.

(C) If the guarantor is a firm with a substantial business relationship with the owner or operator, the letter from the chief financial officer ~~must~~ shall describe this substantial business relationship and the value received in consideration of the guarantee.

(b) The guarantee ~~must~~ shall be effective for closure and post-closure care:

(i) for a new facility or a lateral expansion of an existing facility, before the initial receipt of waste;

(ii) for an existing facility, in accordance with the effective dates specified in Subsection R315-309-1(3)(a); and

(iii) for corrective action, in accordance with the schedule specified in Subsection R315-309-1(3)(b).

(c) The guarantee shall provide that if the owner or operator fails to perform closure, post-closure care, or corrective action of a facility covered by the guarantee, the guarantor will:

(i) perform, or pay a third party to perform, closure, post-closure, or corrective action as required; or

(ii) establish a fully funded trust fund as specified in Section R315-309-4 in the name of the owner or operator.

(d) The guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the ~~D~~ director. Cancellation may not occur until 120 days after the date the notice is received by the ~~D~~ director.

(e) If the guarantee is canceled, the owner or operator shall, within 90 days following the receipt of the cancellation notice:

(i) ~~obtain~~ get alternate financial assurance that meets the requirements of Subsection R315-309-1(1);

(ii) submit documentation of the alternate financial assurance to the ~~D~~ director; and

(iii) place copies of the documentation of the alternate financial assurance in the facility's operating record.

(iv) If the owner or operator fails to provide alternate financial assurance within the 90~~[-]~~-day period, the guarantor ~~must~~ shall provide the alternate financial assurance within 120 days following the guarantor's notice of cancellation, submit documentation of the alternate financial assurance to the ~~D~~ director for review and approval, and place copies of the documentation in the facility's operating record.

(f) If a corporate guarantor no longer meets the requirements of the corporate financial test as specified in Section R315-309-9:

(i) the owner or operator ~~must~~ shall, within 90 days, ~~obtain~~ get alternate financial assurance; and

## NOTICES OF PROPOSED RULES

(ii) submit documentation of the alternate financial assurance to the [D]director and place copies of this documentation in the facility's operating record.

(iii) If the owner or operator fails to provide alternate financial assurance within the 90-day period, the guarantor ~~must~~shall provide that alternate assurance within the next 30 days.

**KEY: solid waste management, waste disposal**

**Date of Last Change: 2024[April 25, 2013]**

**Notice of Continuation: November 30, 2022**

**Authorizing, and Implemented or Interpreted Law: 19-6-105; 40 CFR 258**

### NOTICE OF PROPOSED RULE

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R315-310</b>	<b>Filing ID: 56185</b>
--------------------------------	-----------------	-------------------------

### Agency Information

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Waste Management and Radiation Control, Waste Management	
<b>Room number:</b>	2nd Floor	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 144880	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4880	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tom Ball	385-454-5574	tball@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

### General Information

<b>2. Rule or section catchline:</b>
R315-310. Permit Requirements for Solid Waste Facilities
<b>3. Purpose of the new rule or reason for the change:</b>
The Division Waste Management and Radiation Control, Waste Management (Division) is amending this rule to correct rule references that are incorrect, providing clarifying language, and amending rule language in accordance with legislation.
The Division is also correcting typographical and rule formatting errors.

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

Language was added to Section R315-310-1 to clarify that facility types not addressed specifically in sections of Rule R315-310 also require permits as found in other applicable parts of the rules. The amendment prevents disagreement between Section R315-310-1 and other parts of the rules, including the definition of "permit" in Subsection R315-301-2(55). The change will require compost facilities, transfer stations, recycling facilities, and waste pile facilities to apply for renewal of their permit every 10 years.

The citations to Subsection R315-310-1(a) found in Subsection R315-310-1(5) are being changed to the correct citation to Subsection R315-310-1(1).

Language is being added to Section R315-310-3 as required by H.B. 357 that was passed during the 2013 General Session of the Utah Legislature. The language details the financial information that local governments must submit with a permit application for a new facility.

Language has been deleted from Subsection R315-310-2(2) which required two copies of a permit application to be submitted to the director. Permit applications are now being received electronically and duplicate copies are not needed.

Language has been added to Subsection R315-310-3(1)(b) that extends the exemption for engineer signatures on designs and drawings to facility types not listed in Subsection R315-310-1(1)(b).

The citation to Subsection R315-310-3(3)(a)(i) found in Subsection R315-310-3(2)(a)(ii) and Subsection R315-310-3(2)(b) is being changed to the correct citation to Subsection R315-310-3(2)(a)(i).

Language has been added to Subsection R315-310-3(3)(a) to clarify that information to demonstrate that the requirements of Subsection 19-6-108(11) have been satisfied must be included with the permit application for a Commercial Solid Waste Disposal facility.

The citation to Subsections R315-310-3(2)(a), (b), and (c) found in Subsection R315-310-3(3)(d) is being changed to the correct citation to Subsections R315-310-3(3)(a), (b), and(c).

Language is being added to Subsection R315-310-3(3)(e) as required by S.B. 68 that was passed during the 2011 General Session of the Utah Legislature. The language clarifies that the governor's and legislature's approvals may be automatically revoked in accordance with Utah Code.

Language has been added to Subsection R315-310-10(1) that consolidates the information requirements for a post-closure care permit into one location to make it easier for applicants to locate the requirements. The language contains citations to the various sections of the solid waste rules where each of the requirements can be found.

A new requirement for operators of waste piles was added at Subsection R315-310-10(1)(e) that requires these operators to submit the information required by Subsection R315-314-2(2)(f).

## Fiscal Information

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

#### A) State budget:

It is not anticipated that there will be any cost or savings to the state budget based on these amendments. The majority of the changes are clarifications and corrections.

New requirements that may have a cost impact include a permit renewal requirement for compost facilities, transfer stations, recycling facilities, and waste pile facilities.

The state does not currently operate any of these and it is not anticipated that it will in the future so there are no costs to the state budget due to these requirements.

Additionally, the amendments include a requirement for certain types of waste pile facilities to provide information and any costs that may be associated with gathering the information would be minimal and not measurable. The state does not operate an affected waste pile facility.

#### B) Local governments:

The majority of the changes are clarifications and corrections. However, there are 23 facilities operated by local governments that will now be required to apply for a permit renewal every 10 years. The facilities affected include compost facilities, transfer stations, recycling facilities, and waste pile facilities. It is typical for these facilities to make corrections or updates to their permits as needed. These facility types currently make changes to their plans of operation on an as-needed basis depending on changes to business practices, and occasional changes that improve compliance and implement best management practices. The efforts to make such changes are currently absorbed in the budgets of these facilities. It cannot be estimated whether the renewal of these plans of operation on a 10-year basis will increase costs.

Additionally, the amendments include a requirement for certain types of waste pile facilities to provide information and any costs that may be associated with gathering the information would be minimal and not measurable. No local governments currently operate an affected waste pile facility.

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

The majority of the changes are clarifications and corrections. However, there are 13 facilities operated by small businesses that will now be required to apply for a permit renewal every 10 years. The facilities affected include compost facilities, transfer stations, recycling

facilities, and waste pile facilities. These facility types currently make changes to their plans of operation on an as-needed basis depending on changes to business practices, and occasional changes that improve compliance and implement best management practices. The efforts to make such changes are currently absorbed in the budgets of these facilities. It cannot be estimated whether the renewal of these plans of operations on a 10-year basis will increase costs.

Additionally, the amendments include a requirement for certain types of waste pile facilities to provide information and any costs that may be associated with gathering the information would be minimal and not measurable.

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

The majority of the changes are clarifications and corrections. However, there are 10 facilities operated by non-small businesses that will now be required to apply for a permit renewal every 10 years. The facilities affected include compost facilities, transfer stations, recycling facilities, and waste pile facilities. These facility types currently make changes to their plans of operation on an as-needed basis depending on changes to business practices, and occasional changes that improve compliance and implement best management practices. The efforts to make such changes are currently absorbed in the budgets of these facilities. It cannot be estimated whether the renewal of these plans of operations on a 10-year basis will increase costs.

Additionally, the amendments include a requirement for certain types of waste pile facilities to provide information and any costs that may be associated with gathering the information would be minimal and not measurable.

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

The majority of the changes are clarifications and corrections. However, there is 1 waste pile facility operated by a person other than a small business, non-small business, state, or local government that will now be required to apply for a permit renewal every 10 years. These facility types currently make changes to their plans of operation on an as-needed basis depending on changes to business practices, and occasional changes that improve compliance and implement best management practices. The efforts to make such changes are currently absorbed in the budgets of these facilities. It cannot be estimated whether the renewal of these plans of operations on a 10-year basis will increase costs.

Additionally, the amendments include a requirement for certain types of waste pile facilities to provide information and any costs that may be associated with gathering the information would be minimal and not measurable.



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

The amendments include new requirements for compost facilities, transfer stations, recycling facilities, and waste pile facilities to apply for a permit renewal every 10 years. These facility types currently make changes to their plans of operation on an as-needed basis depending on changes to business practices, and occasional changes that improve compliance and implement best management practices. The efforts to make such changes are currently absorbed in the budgets of these facilities. It cannot be estimated whether the renewal of these plans of operations on a 10-year basis will increase costs.

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

**Regulatory Impact Table**

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

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

The Executive Director of the Department of Environmental Quality, Kim Shelley, 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 19-6-105	Section 19-6-108	Section 19-6-109
------------------	------------------	------------------

**Public Notice Information**

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/15/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Division Director	<b>Date:</b>	11/09/2023
---	--------------------------------------	--------------	------------

**R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.**

**R315-310. Permit Requirements for Solid Waste Facilities.**

**R315-310-1. Applicability.**

(1) ~~The following~~ Solid waste facilities subject to the requirements of Rules R315-301 through R315-320 require a permit as follows:

(a) The following solid waste facilities are subject to the requirements of Sections R315-310-2 through R315-310-12:

(i) New and existing Class I, II, III, IV, V, VI, and coal combustion residual (CCR) Landfills and coal combustion residual surface impoundments;

(ii) Class I, II, III, IV, V, and VI Landfills that have closed but have not met the requirements of Subsection R315-302-3(7);

(iii) incinerator facilities that are regulated by Rule R315-306;

(iv) land[-]treatment disposal facilities that are regulated by Rule R315-307; and

(v) waste tire storage facilities.

(b) Solid waste facilities not listed in Subsection R315-310-1(1)(a) are subject to the permitting requirements of Sections R315-310-2, R315-310-3, R315-310-9, R315-310-11, and the applicable requirements of Rules R315-301 through R315-320.

(c) The following facilities are subject to Subsection R315-310-1(b) and the post-closure permit requirements of Section R315-310-10:



(i) compost facilities; and

(ii) waste piles, when post-closure monitoring is required under Subsection R315-314-2(f)(ii).

(2) Permits are not required for corrective actions at solid waste facilities performed by the state or in conjunction with the United States Environmental Protection Agency or in conjunction with actions to implement the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA), or corrective actions taken by others to comply with a state or federal cleanup order.

(3) The requirements of Sections R315-310-2 through R315-310-12 apply to each existing and new solid waste facility as indicated.

(a) The [D]director may incorporate a compliance schedule for each existing facility to ensure that the owner or operator, or both, of each existing facility meet the requirements of Rule R315-310.

(b) The owner or operator, or both, where the owner and operator are not the same person, of each new facility or expansion at an existing solid waste facility, for which a permit is required, shall:

(i) apply for a permit according to the requirements of Rule R315-310;

(ii) not begin the construction or the expansion of the solid waste facility until a permit has been granted; and

(iii) not accept waste at the solid waste facility ~~prior to~~ before receiving the approval required by Subsection R315-301-5(1).

(4) A landfill may not change from its current class, or subclass, to any other class, or subclass, of landfill except by meeting ~~each~~ each requirement[s] for the desired class, or subclass, to include ~~obtaining~~ getting a new permit from the [D]director for the desired class, or subclass, of landfill.

(5) Any facility that is in operation ~~at the time that~~ when a permit is required for the facility by Subsection R315-310-1~~(a)~~ (1) and has submitted a permit application within six months of the date the facility became subject to the permit requirements of Subsection R315-310-1~~(a)~~ (1) may continue to operate during the permit review period but ~~must~~ shall meet ~~all~~ the applicable requirements of ~~the~~ Rules R315-301 through R315-320 unless an alternative requirement has been approved by the [D]director.

### **R315-310-2. Procedures for Permits.**

(1) Prospective applicants may request the [D]director to schedule a pre-application conference to discuss the proposed solid waste facility and application contents before the application is filed.

(2) Any owner or operator who intends to operate a facility subject to the permit requirements ~~must~~ shall apply for a permit with the [D]director. ~~Two copies of the application, signed by the owner or operator and received by the Director are required before permit review can begin.~~

(3) Applications for a permit ~~must~~ shall be completed in the format prescribed by the [D]director.

(4) An application for a permit, ~~all~~ any reports required by a permit, and other information requested by the [D]director shall be signed as follows:

(a) for a corporation: by a principal executive officer of at least the level of vice[-]president;

(b) for a partnership or sole proprietorship: by a general partner or the proprietor;

(c) for a municipality, [S]state, [F]federal, or other public agency: by either a principal executive officer or ranking elected official; or

(d) by an  ~~duly~~ authorized representative of the person ~~above~~ specified in Subsections R315-310-2(4)(a) through R315-310-2(4)(c), as appropriate.

(i) A person is an  ~~duly~~ authorized representative only if the authorization is made in writing, to the [D]director, by a person described in Subsection[s] R315-310-2(4)(a), R315-310-2(4)(b), or R315-310-2(4)(c), as appropriate.

(ii) The authorization may specify either a named individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of facility manager, director, superintendent, or other position of equivalent responsibility.

(iii) If an authorization is no longer accurate and needs to be changed because a different individual or position has responsibility for the overall operation of the facility, a new authorization that meets the requirements of Subsections R315-310-2(4)(d)(i) and R315-310-2(4)(d)(ii) shall be submitted to the [D]director ~~prior to~~ before or together with any report, information, or application to be signed by the authorized representative.

(5) Filing Fee and Permit Review Fee.

(a) A filing fee, as required by the Annual Appropriations Act, shall accompany the filing of an application for a permit. The review of the application will not begin until the filing fee is received.

(b) A review fee, as established by the Annual Appropriations Act, shall be charged at an hourly rate for the review of an application. The review fee shall be billed quarterly and shall be due and payable quarterly.

(6) ~~All~~ Any content[s] and material[s] submitted as a permit application shall become part of the approved permit and shall be part of the operating record of the solid waste disposal facility.

(7) The owner or operator, or both, of a facility shall apply for renewal of the facility's permit ~~every~~ each ten years.

### **R315-310-3. General Contents of a Permit Application for a New Facility or a Facility Seeking Expansion.**

(1) Each permit application for a new facility or a facility seeking expansion shall contain the following:

(a) the name and address of the applicant, property owner, and responsible ~~party~~ person for the site operation;

(b) a general description of the facility accompanied by facility plans and drawings and, except for Class IIb, IVb, and Class VI Landfills, ~~and~~ facilities addressed in Subsection R315-310-1(1)(b) and, waste tire storage facilities, unless required by the [D]director, the facility plans and drawings shall be signed and sealed by a professional engineer registered in ~~the State of~~ Utah;

(c) a legal description and proof of ownership, lease agreement, or other mechanism approved by the [D]director of the proposed site, latitude and longitude map coordinates of the facility's front gate, and maps of the proposed facility site including land use and zoning of the surrounding area;

(d) the types of waste to be handled at the facility and area served by the facility;

(e) the plan of operation required by Subsection R315-302-2(2);

(f) the form used to record weights or volumes of wastes received required by Subsection R315-302-2(3)(a)(i);

(g) an inspection schedule and inspection log required by Subsection R315-302-2(5)(a);

(h) the closure and post-closure plans required by Section R315-302-3;

(i) documentation to show that any ~~[waste water]~~ wastewater treatment facility, such as a run-off or a leachate treatment system, is being reviewed or has been reviewed by the Division of Water Quality;

(j) a proposed financial assurance plan that meets the requirements of Rule R315-309; and

(k) ~~[A]~~a historical and archeological identification efforts, which may include an archaeological survey conducted by a person holding a valid license to conduct surveys issued under Rule R694-1.

(l) An application for a new facility that is owned or operated by a local government shall include financial information that discloses the costs of establishing and operating the facility, including:

(i) land acquisition and leasing;

(ii) construction;

(iii) estimated annual operation;

(iv) equipment;

(v) ancillary structures;

(vi) roads;

(vii) transfer stations; and

(viii) other operations not contiguous to the proposed facility that are necessary to support the facility's construction and operation.

(2) Public Participation Requirements.

(a) Each permit application shall provide:

(i) the name and address of ~~[all]~~each owner[s] of property within 1,000 feet of the proposed solid waste facility; and

(ii) documentation that a notice of intent to apply for a permit for a solid waste facility has been sent to ~~[all]~~each property owner[s] identified in Subsection R315-310-3~~(2)~~(2)(a)(i)~~[-]~~; and

(iii) ~~[the Director with]~~the name of the local government with jurisdiction over the site and the mailing address of that local government office.

(b) The ~~[D]~~director shall send a letter to each person identified in Subsections R315-310-3~~(2)~~(2)(a)(i) and R315-310-3(2)(a)(iii) requesting that ~~[they]~~the person reply, in writing, if ~~[they]~~the person desires ~~[their name]~~to be placed on an interested ~~[party]~~persons list to receive further public information concerning the proposed facility.

(3) Special Requirements for a Commercial Solid Waste Disposal Facility.

(a) The permit application for a commercial nonhazardous solid waste disposal facility shall contain the information required by Subsection~~[s]~~ 19-6-108~~(9) and~~(10), including information to demonstrate that the requirements of Subsection 19-6-108(11) are satisfied.

(b) ~~[Subsequent to]~~After the issuance of a solid waste permit by the ~~[D]~~director, a commercial nonhazardous solid waste disposal facility shall meet the requirements of Subsection 19-6-108(3)(c) and provide documentation to the ~~[D]~~director that the solid waste disposal facility is approved by the local government, the Legislature, and the governor.

(c) Construction of the commercial solid waste disposal facility may not begin until the requirements of Subsection~~[s]~~ R315-310-3(2)(b) are met and approval to begin construction has been granted by the ~~[D]~~director.

(d) Commercial solid waste disposal facilities solely under contract with a local government within the state to dispose of nonhazardous solid waste generated within the boundaries of the local government are not subject to Subsections R315-310-3~~(2)~~(3)(a), R315-310-3(3)(b), and R315-310-3(3)(c).

(e) The governor's approval and legislative approval may be automatically revoked in accordance with Subsections 19-6-108(3)(c)(iv) and 19-6-108(3)(c)(v).

#### **R315-310-5. Contents of a Permit Application for a New or Expanding Class III, IV, or VI Landfill.**

(1) Each application for a permit for a new Class III, IV, or VI ~~[L]~~landfill or for a permit to expand an existing Class III, IV, or VI Landfill shall contain the information required in Section R315-310-3.

(2) Each application shall also contain an engineering report, plans, specifications, and calculations that address:

(a) the information and maps required by Subsections R315-310-4(2)(a)(i) and R315-310-4(2)(a)(ii);

(b) the design and location of the run-on and run-off control systems;

(c) the information required by Subsections R315-310-4(2)(d) and R315-310-4(2)(e);

(d) the area to be served by the facility; and

(e) how the facility will meet the requirements of Rule R315-304, for a Class III Landfill, or Rule R315-305, for a Class IV or VI Landfill.

(3) Each application for a Class IIIa or Class IVa Landfill permit shall also contain the applicable information required in Subsections R315-310-4(2)(b) and R315-310-4(2)(c).

#### **R315-310-7. Contents of a Permit Application for a New or Expanding Incinerator Facility.**

(1) Each application for a new or expanding incinerator facility permit shall contain the information required in Section R315-310-3.

(2) Each application for a permit shall also contain:

(a) engineering report, plans, specifications, and calculations that address:

(i) the design of the storage and handling facilities on-site for incoming waste as well as fly ash, bottom ash, and any other wastes produced by air or water pollution controls; and

(ii) the design of the incinerator or thermal treater, including charging or feeding systems, combustion air systems, combustion or reaction chambers, including heat recovery systems, ash handling systems, and air pollution and water pollution control systems. Instrumentation and monitoring systems design shall also be included~~[-]~~;

(b) an operational plan that, in addition to the requirements of Section R315-302-2, addresses:

(i) cleaning of storage areas as required by Subsection R315-306-2(5);

(ii) alternative storage plans for breakdowns as required in Subsection R315-306-2(3);

(iii) inspections to ~~[insure]~~ensure compliance with state and local air pollution laws and to comply with Subsection R315-302-2(5)(a). The inspection log or summary ~~[must]~~shall be submitted with the application;

(iv) how and where the fly ash, bottom ash, and other solid waste will be disposed; and

(v) a program for excluding the receipt of hazardous waste equivalent to requirements specified in Subsection R315-303-4(7)~~[-]~~;

(c) documentation to show that air pollution and water pollution control systems are being reviewed or have been reviewed by the Division of Air Quality and the Division of Water Quality~~[-]~~;

(d) a closure plan to address:

(i) closure schedule;

- (ii) closure costs and a financial assurance mechanism to cover the closure costs;
- (iii) methods of closure and methods of removing wastes, equipment, and location of final disposal; and
- (iv) final inspection by regulatory agencies.

#### **R315-310-9. Contents of an Application for a Permit Renewal.**

The owner or operator, or both, where the owner and operator are not the same person, of each existing facility who intend to have the facility continue to operate, shall apply for a renewal of the permit by submitting the applicable information and application specified in Section[s] R315-310-3, R315-310-4, R315-310-5, R315-310-6, R315-310-7, or R315-310-8, as appropriate. Applicable information, that was submitted to the [D]director as part of a previous permit application, may be copied and included in the permit renewal application so that [aH]the required information is contained in one document. The information submitted shall reflect the current operation, monitoring, closure, post-closure, and [aH]any other aspects of the facility as currently established at the time of the renewal application [submitte]submittal.

#### **R315-310-10. Contents of an Application for a Permit for a Facility in Post-Closure Care.**

(1) The application for a Post-Closure Care permit shall contain the applicable information required in [Section R315-310-3 and documentation as to how the facility will meet the requirements of Section R315-302-3(5) and (6)]. Subsections R315-310-3(1)(a) through R315-310-3(1)(c), and R315-310-3(1)(g) through R315-310-3(1)(j), and:

- (a) for landfills, except CCR facilities:
  - (i) proof of recording with the county recorder as required by Subsection R315-302-2(6);
  - (ii) for Class I, II, IIIa, IVa, and V Landfills, demonstrate that the applicable requirements of Subsection R315-303-3(4) have been met;
  - (iii) for each Class III Landfill, the applicable requirements of Section R315-304-5;
  - (iv) for each Class IV or VI Landfill, the applicable requirements of Section R315-305-5;
  - (v) the applicable requirements for groundwater monitoring according to Rule R315-308; and
  - (vi) the financial assurance update requirements of Subsection R315-311-1(5);
- (b) for incinerator facilities the required financial assurance for incinerators according to Section R315-306-2 or R315-306-3, as applicable;
- (c) for landtreatment disposal facilities the applicable information required in Section R315-307-4;
- (d) for composting facilities the applicable information required in Subsection R315-312-3(5);
- (e) for waste piles subject to Rule R315-314 that are likely to produce leachate the applicable information required in Subsection R315-314-2(2)(f); and
- (f) for CCR facilities the applicable information required in Sections R315-319-100 through R315-319-104.

#### **R315-310-11. Permit Transfer.**

(1) A permit may not be transferred without approval from the [D]director, nor shall a permit be transferred from one property to another.

(2) The new owner or operator shall submit to the [D]director:

- (a) [A]a revised permit application no later than 60 days [prior to]before the scheduled change; and
- (b) [A]a written agreement containing a specific date for transfer of permit responsibility between the current permittee and the new permittee[s].

(3) The new permittee shall:

- (a) assume permit requirements and [aH]financial responsibility;
  - (b) provide adequate documentation that the permittee has or shall have ownership or control of the facility for which the transfer of permit has been requested;
  - (c) demonstrate adequate knowledge and ability to operate the facility in accordance with the permit conditions; and
  - (d) demonstrate adequate financial assurance as required in the permit and Rule R315-309 for the operation of the facility.
- (4) [When]If a transfer of ownership or operational control occurs, the old owner or operator shall comply with the requirements of Rule R315-309 until the new owner or operator has demonstrated that it is complying with the requirements of that rule.

(5) An application for permit transfer may be denied if the [D]director finds that the applicant has:

- (a) knowingly misrepresented a material fact in the application;
- (b) refused or failed to disclose any information requested by the [D]director;
- (c) exhibited a history of willful disregard of any state or federal environmental law; or
- (d) had any permit revoked or permanently suspended for cause under any state or federal environmental law.

**KEY: solid waste management, waste disposal**

**Date of Last Change: 2024[July 15, 2016]**

**Notice of Continuation: November 30, 2022**

**Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-108; 19-6-109; 40 CFR 258**

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

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R315-311</b>	<b>Filing ID:</b> <b>56179</b>
--------------------------------	-----------------	-----------------------------------

#### **Agency Information**

<b>1. Department:</b>	Environmental Quality
<b>Agency:</b>	Waste Management and Radiation Control, Waste Management
<b>Room number:</b>	2nd Floor
<b>Building:</b>	MASOB
<b>Street address:</b>	195 N 1950 W
<b>City, state and zip:</b>	Salt Lake City, UT 84116
<b>Mailing address:</b>	PO Box 144880
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4880

<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tom Ball	385-454-5574	tball@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

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

R315-311. Permit Approval For Solid Waste Disposal, Waste Tire Storage, Energy Recovery, And Incinerator Facilities

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

This rule is being amended to require the Division of Waste Management and Radiation Control, Waste Management (Division) to follow the requirements of Rule R315-124 in addition to the requirements found in Rule R315-311 for permit actions taken by the Director.

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

Citations to Rule R315-124 have been added at Subsection R315-311-1(1).

Subsection R315-311-1(1)(c) is being deleted because it is no longer needed with the amended Subsection R315-311-1(1), that provides that the application will be reviewed according to Section R315-124-3 and includes a similar requirement.

Subsection R315-311-1(2) is being reserved to maintain the numbering sequence of the existing rule. The former text has been removed because a permit application for which a draft permit is prepared must include all applicable requirements as found in Rules R315-301 through R315-320, as stated in the amended Subsection R315-124-6(d)(4).

Subsection R315-311-2(1) is being amended to require the Division to follow the requirements of Rule R315-124 for permit modification and termination requests.

The number of days for public comment is being changed from 30 to 45 in Subsection R315-311-2(1)(a). This subsection is also being amended to clarify that a public comment period for minor modifications may be required by Subsection R315-311-2(1)(b). The subsection is further amended to clarify that Subsection R315-311-2(1)(a)(vi) and Subsection R315-311-2(1)(a)(viii) are not minor modifications for coal combustion residual units.

Subsection R315-311-2(1)(a)(xi) and Subsection R315-311-2(1)(a)(xvi) are being amended to clarify that changes to sampling and analysis methods, procedures, and schedules are minor modifications if the changes conform to Rule R315-308.

The number of days for public comment is being changed from 30 to 45 in Subsection R315-311-2(1)(b).

Subsection R315-311-2(2) is being amended to require the Division to follow the requirements of Rule R315-124 for permit renewal in addition to the requirements of Section R315-311-3.

Subsection R315-311-2(3) is being amended to require the Division to follow the requirements of Rule R315-124 for permit termination requests.

Section R315-311-3 is being amended to change the number of days for public comment from 30 to 45 and to require the Division to follow the requirements of Rule R315-124.

Additionally, the Division is correcting typographical and formatting errors in the rule.

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

Any costs for increased public participation activities will either be handled within the current budget of the Division or will be passed along to permittees, see below, and therefore, there will be no cost or savings to the state budget.

**B) Local governments:**

The cost of this amended rule to local governments will be the cost of publishing notice of the action being taken in local newspapers for compost facilities, transfer stations, recycling facilities, and waste pile facilities. This cost is billed by the Division to the permittee.

The cost of publishing a notice in a newspaper range from a low of \$48 to as high as \$311 depending on the size of the notice and the newspaper where it is being published. There are 23 permitted local government facilities that could be affected by this amended rule. Multiplying the number of permitted facilities by the estimated costs results in a cost range of \$1,104 to \$7,153.

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

The cost of this amended rule to small businesses will be the cost of publishing notice of the action being taken in local newspapers for compost facilities, transfer stations, recycling facilities, and waste pile facilities. This cost is billed by the Division to the permittee.

The cost of publishing a notice in a newspaper range from a low of \$48 to as high as \$311 depending on the size of the notice and the newspaper where it is being published. There are 13 permitted facilities operated by small businesses that could be affected by this amended rule.

Multiplying the number of permitted facilities by the estimated costs results in a cost range of \$624 to \$4,037.

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

The cost of this amended rule to non-small businesses will be the cost of publishing notice of the action being taken in local newspapers for compost facilities, transfer stations, recycling facilities, and waste pile facilities. This cost is billed by the Division to the permittee.

The cost of publishing a notice in a newspaper range from a low of \$48 to as high as \$311 depending on the size of the notice and the newspaper where it is being published. There are 10 permitted facilities operated by non-small businesses that could be affected by this amended rule. Multiplying the number of permitted facilities by the estimated costs results in a cost range of \$480 to \$3,110.

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

The cost of this amended rule to persons other than small businesses, non-small businesses, state or local government entities will be the cost of publishing notice of the action being taken in local newspapers for compost facilities, transfer stations, recycling facilities, and waste pile facilities. This cost is billed by the Division to the permittee.

The cost of publishing a notice in a newspaper range from a low of \$48 to as high as \$311 depending on the size of the notice and the newspaper where it is being published. There is 1 permitted facility operated by a person other than small businesses, non-small businesses, state or local government entities that could be affected by this amended rule. Multiplying the number of permitted facilities by the estimated costs results in a cost range of \$48 to \$311.

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

As stated above, the only cost for affected persons is the cost of publishing a notice in the newspaper of the action being taken by the Director for compost facilities, transfer stations, recycling facilities, and waste pile facilities.

There are no other compliance costs associated with this rule amendment.

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

**Regulatory Impact Table**

<b>Fiscal Cost</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$7,153	\$7,153	\$7,153
Small Businesses	\$4,043	\$4,043	\$4,043
Non-Small Businesses	\$3,110	\$3,110	\$3,110
Other Persons	\$311	\$311	\$311
<b>Total Fiscal Cost</b>	<b>\$14,617</b>	<b>\$14,617</b>	<b>\$14,617</b>
<b>Fiscal Benefits</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$14,617</b>	<b>\$14,617</b>	<b>\$14,617</b>

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

The Executive Director of the Department of Environmental Quality, Kimberly Shelley, 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 19-6-104	Section 19-6-105	Section 19-6-108
------------------	------------------	------------------

**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.)

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------



<b>9. This rule change MAY become effective on:</b>	01/15/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Division Director	<b>Date:</b>	11/09/2023
---	--------------------------------------	--------------	------------

**R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.****R315-311. Permit Approval For Solid Waste Disposal, Waste Tire Storage, Energy Recovery, And Incinerator Facilities.****R315-311-1. General Requirements.**

(1) Unless otherwise stated in Rules R315-301 through R315-320, permit actions taken by the director are subject to Rules R315-311 and R315-124. Upon submittal of the complete information required by Rule R315-310, the application will be reviewed in accordance with Section R315-124-3 and a draft permit or permit denial will be prepared in accordance with Sections R315-124-5 through R315-124-6 and the owner or operator of the new or existing facility will be notified in writing by the Director.

(a) After meeting the requirements of the public comment period and public hearing as stipulated in Section R315-311-3, the owner or operator may be issued a permit ~~which that~~ will include appropriate conditions and limitations on operation and types of waste to be accepted at the facility.

(b) Construction ~~shall may~~ not begin ~~prior to~~ before the receipt of the permit.

~~(c) An application that has been initiated by an owner or operator but for which the Director has not received a response to questions about the application for more than one year shall be canceled.~~

~~(2) [Solid waste disposal facility plan approval and permit issuance will depend upon:~~

~~(a) the adequacy of the facility in meeting the location standards in Section R315-302-1;~~

~~(b) the hydrology and geology of the area; and~~

~~(c) the adequacy of the plan of operation, facility design, and monitoring programs in meeting the requirements of the applicable rules.]Reserved.~~

(3) A permit can be granted for up to ten years by the [D]director, except as allowed in Subsection R315-311-1(5).

(4) The owner or operator, or both, ~~when~~ if the owner and the operator are not the same person, of each solid waste facility shall:

(a) apply for a permit renewal, as required by Section R315-310-~~10~~9, 180 days ~~prior to~~ before the expiration date of the current permit if the permit holder intends to continue operations after the current permit expires; and

(b) for facilities ~~for which~~ that require financial assurance ~~is required by~~ in accordance with Section R315-309-1, submit, for review and approval by the [D]director on a schedule of no less than ~~every~~ five years, a complete update of the financial assurance required in Rule R315-309 ~~which that~~ shall contain:

(i) a calculation of the current costs of closure as required by Subsection R315-309-2(3); and

(ii) a calculation that is not based on a closure cost ~~which that~~ has been ~~obtained~~ received by applying an inflation factor to past cost estimates.

(5) A permit for a facility in post-closure care:

~~(4)(a)~~ (a) may be issued for the life of the post-closure care period; and

~~(4)(b)~~ (b) the holder of the post-closure care permit shall comply with Subsection R315-311-1(4)(b).

**R315-311-2. Permit Modification, Renewal, or Termination.**

(1) A permit may be considered for modification~~renewal~~ or termination at the request of any interested person, including the permittee, or upon the [D]director's initiative ~~as a result of new information or changes in statutes or rules. Requests for modification, reissuance, or termination shall be submitted in writing to the Director and shall contain facts or reasons supporting the request in accordance with Section R315-124-5. Requests for permit modificationrenewal or termination shall become effective only upon approval by the [D]director and in accordance with Section R315-124-15.~~

(a) Minor modifications of a permit or plan of operation ~~shall may~~ not be subject to the ~~30~~45 day public comment period as required by Section R315-311-3, unless obligatory under Subsection R315-311-2(1)(b). ~~A permitThe following modifications shall be considered minorif, except that Subsections R315-311-2(1)(a)(vi) and R315-311-2(1)(a)(viii) are not minor modifications for coal combustion residual units.~~

(i) Corrections of typographical errors~~are corrected~~.

(ii) Changes to the name, address, or phone number of persons or agencies identified in the permit~~are changed~~.

(iii) Changes to administrative or informational items~~changes are made~~.

(iv) Making changes to procedures for maintaining the operating record~~are changed~~ or the location where the operating record is kept~~is changed~~.

(v) ~~e~~Changes are made to provide for more frequent monitoring, reporting, sampling, or maintenance~~s~~.

(vi) ~~A~~ compliance date extension request is made for a new date not to exceed 120 days after the date specified in the approved permit~~s~~.

(vii) ~~e~~Changes are made ~~in~~to the expiration date of the permit to allow an earlier permit termination~~s~~.

(viii) ~~e~~Changes are made ~~in~~to the closure schedule for a unit, ~~in~~to the final closure schedule for the facility, or the closure period is extended~~s~~.

(ix) ~~t~~The [D]director determines, in the case of a permit transfer application, that no change in the permit other than the change in the name of the owner or operator is necessary~~s~~.

(x) ~~e~~Equipment is upgraded or replaced with functionally equivalent components~~s~~.

(xi) ~~e~~Changes are made in sampling or analysis methods, procedures, or schedules~~s~~ and those changes conform with Rule R315-308 if sampling or analyzing groundwater.

(xii) ~~e~~Changes are made in the construction or ~~ground water~~groundwater monitoring quality control~~f~~ quality assurance plans ~~which that~~ will better certify that the specifications for construction, closure, sampling, or analysis will be met~~s~~.

(xiii) ~~e~~Changes are made in the facility plan of operation ~~which that~~ conform to guidance or rules approved by the Waste Management and Radiation Control Board or provide more efficient waste handling or more effective waste screening~~s~~.

(xiv) ~~Replacement of an existing monitoring well [is replaced]~~ with a new well without changing the location[s].

(xv) ~~[e]Changes are made in the design or depth of a monitoring well that provides more effective monitoring[s].~~

(xvi) ~~[e]Changes are made in the statistical method used to statistically analyze the [ground water]groundwater quality data[s; or] that conform with Rule R315-308.~~

(xvii) Changes are made in any permit condition that are more restrictive or provide more protection to health or the environment.

(b) The ~~[D]~~director may subject any minor modification request to the ~~[30-]45~~ day public comment period described in Subsection R315-311-3(1) if justified by conditions and circumstances.

(c) A permit modification that does not meet the requirements of Subsection R315-311-2(1)(a) for a minor modification shall be a major modification.

(d) If the ~~[D]~~director determines that major modifications to a permit or plan of operation are justified, a new operational plan incorporating the approved modifications shall be prepared. The modifications shall be subject to the public comment period as specified in Section R315-311-3.

(2) An application for permit renewal shall consist of the information required by Section R315-310-9. Upon receipt~~[of the application]~~, the ~~[D]~~director will review the application ~~[and will notify the applicant as to what information or change of operational practice is required of the applicant, if any, to receive a permit renewal]~~in accordance with Section R315-124-3, and a draft permit or a notice of intent to deny will be prepared in accordance with Section R315-124-6. The current permit shall remain in effect until issuance or denial of a new permit. Each permit renewal shall be subject to the public comment requirements of Section R315-311-3.

(3) The ~~[D]~~director shall notify, in writing, the owner or operator of any facility of intent to terminate a permit in accordance with Subsections R315-124-5(d) and R315-124-5(e). A permit may be terminated for:

(a) noncompliance with any condition of the permit;

(b) noncompliance with any applicable rule;

(c) failure in the application or during the approval or renewal process to disclose fully ~~[all]~~each relevant fact[s];

(d) misrepresentation by the owner or operator of any relevant facts at any time; or

(e) a determination that the solid waste activity or facility endangers human health or the environment.

(4) The owner or operator of a facility may appeal any action

associated with modification, renewal, or termination in accordance with Section R315-317-3, Title 63G Chapter 4, Administrative Procedures Act, and Rule R305-7.

### **R315-311-3. Public Comment Period.**

(1) The draft permit, permit renewal, or major modification of a permit, for each solid waste facility that requires a permit, shall be subject to a ~~[30-]45~~ day public comment period and shall follow the procedures of Sections R315-124-10 through R315-124-20.

~~[(2) A public hearing may be held if a request for public hearing is submitted to the Director in writing:~~

~~(a) by a local government, a state agency, ten interested persons, or an interested association having not fewer than ten members; and~~

~~(b) the request is received by the Director not more than 15 days after the publication of the public notice.~~

~~(3) After due consideration of all comments received, final determination on draft permits or major modification of permits will be made available by public notice.]~~

**KEY: solid waste management, waste disposal**

**Date of Last Change: 2024[April 25, 2013]**

**Notice of Continuation: November 30, 2022**

**Authorizing, and Implemented or Interpreted Law: 19-6-104; 19-6-105; 19-6-108**

## **NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R315-314</b>	<b>Filing ID:</b> <b>56186</b>
--------------------------------	-----------------	-----------------------------------

## **Agency Information**

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Waste Management and Radiation Control, Waste Management	
<b>Room number:</b>	2nd Floor	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 144880	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4880	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tom Ball	385-454-5574	tball@utah.gov

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

## **General Information**

### **2. Rule or section catchline:**

R315-314. Facility Standards for Piles Used for Storage and Treatment

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

The Division of Waste Management and Radiation Control, Waste Management (Division) is amending this rule to correct a rule reference and add post-closure requirements.

The Division is also correcting typographical and rule formatting errors.

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

Requirements for post-closure of a waste pile are being added at Subsection R315-314-2(2)(f).



The citation to Subsection R315-314-3(3)(1) found at Subsection R315-314-3(5)(b) is being corrected to Subsection R315-314-3(3)(k).

## 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. There are currently no permitted waste piles operated by the state.

If the state has a future need for a permitted waste pile that has the potential to produce leachate, the amended language may result in costs if the pile remains in place for more than 1 year without the director's approval. The cost would be variable but can be estimated at an average of less than \$500.

#### B) Local governments:

There is no anticipated cost or savings to any local governments due to the amendments because there are no permitted waste piles currently being operated by local governments.

If a local government has a future need for a permitted waste pile that has the potential to produce leachate, the amended language may result in costs if the pile remains in place for more than 1 year without the director's approval. The cost would be variable but can be estimated at an average of less than \$500.

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

There is currently 1 small business operating a permitted waste pile in the state that has the potential to produce leachate. The added language provides clarification of the existing requirements found in Section R315-301-6, and the additional requirement to record the information on the property's title if the pile remains in place for more than 1 year without the director's approval.

The existing small business with a permitted waste pile is expected to convert to a landfill within the required timeframe, so no additional costs are expected for this facility. If another small business has a future need for a permitted waste pile that has the potential to produce leachate, the amended language may result in costs if the pile remains in place for more than 1 year without the director's approval. The cost would be variable but can be estimated at an average of less than \$500.

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

There is no anticipated cost or savings to any non-small businesses due to the amendments because there are no

permitted waste piles currently being operated by any non-small businesses.

If a non-small business has a future need for a permitted waste pile that has the potential to produce leachate, the amended language may result in costs if the pile remains in place for more than 1 year without the director's approval. The cost would be variable but can be estimated at an average of less than \$500.

#### 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 currently 1 person other than small businesses, non-small businesses, state, or local government entities operating a permitted waste pile in the state that has the potential to produce leachate. The added language provides clarification of the existing requirements found in Section R315-301-6, and the additional requirement to record the information on the property's title if the pile remains in place for more than 1 year without the director's approval. The existing facility is not compliant with the conditions of their existing approval to store waste in piles for more than 1 year and may be required to record the operation on the property's title.

Additionally, if a person other than small businesses, non-small businesses, state, or local government entities has a future need for a permitted waste pile that has the potential to produce leachate, the amended language may result in costs if the pile remains in place for more than 1 year without the director's approval. The cost would be variable but can be estimated at an average of less than \$500.

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

The added language provides clarification of the existing requirements found in Section R315-301-6, and the additional requirement to record the information on the property's title when a facility expected to produce leachate has remained in place for more than 1 year without the director's approval. The cost would be variable but can be estimated at an average of less than \$500.

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

##### Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$500	\$500	\$500

Local Governments	\$500	\$500	\$500
Small Businesses	\$500	\$500	\$500
Non-Small Businesses	\$500	\$500	\$500
Other Persons	\$500	\$500	\$500
<b>Total Fiscal Cost</b>	<b>\$2,500</b>	<b>\$2,500</b>	<b>\$2,500</b>
<b>Fiscal Benefits</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>(\$2,500)</b>	<b>(\$2,500)</b>	<b>(\$2,500)</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Environmental Quality, Kim Shelley, has reviewed and approved this regulatory impact analysis.			

**Citation Information**

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Section 19-6-104	Section 19-6-105	Section 19-6-108

**Public Notice Information**

<b>8. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
<b>A) Comments will be accepted until:</b>	01/03/2024
<b>9. This rule change MAY become effective on:</b>	01/15/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Division Director	<b>Date:</b>	11/09/2023
---	--------------------------------------	--------------	------------

**R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.****R315-314. Facility Standards for Piles Used for Storage and Treatment.****R315-314-1. Applicability.**

(1) The requirements of Rule R315-314 apply to the following:

- (a) a pile of solid waste containing garbage that has been in place for more than seven days;
- (b) a pile of solid waste ~~[which]~~that does not contain garbage that has been in place for more than 90 days;
- (c) a pile of material derived from waste tires ~~[where]~~if more than 1,000 passenger tire equivalents are stored at one site; and
- (d) a pile of whole waste tires ~~[where]~~if more than 1,000 tires are stored at one site.

(2) The requirements of Rule R315-314 do not apply to the following:

- (a) solid waste stored or treated in piles ~~[prior to]~~before recycling including compost piles and wood waste;
- (b) solid waste stored in fully enclosed buildings, provided that no liquids or sludge containing free liquids are added to the waste;

(c) a pile of inert waste, as defined by Subsection R315-301-2(36); and

(d) a pile of whole waste tires located at a permitted waste disposal facility that is stored for not longer than one year.

(3) A site where crumb rubber, an ultimate product derived from waste tires, or waste tires that have been reduced to materials for beneficial use are stored for not longer than one year may receive a waiver of the requirements of Rule R315-314 from the ~~[D]~~director on a site specific basis.

(a) No waiver of the requirements of Rule R315-314 will be granted by the ~~[D]~~director without application from the owner or operator of the storage site.

(b) In granting a waiver of the requirements of Rule R315-314, the ~~[D]~~director may place conditions on the owner or operator of the storage site as to the sizes of piles, distance between piles, or other operational practices that will minimize fire danger or a risk to human health or the environment.

(c) The ~~[D]~~director may revoke a waiver of the Requirements of Rule R315-314 if the ~~[D]~~director finds that:

- (i) any condition of the waiver is not met; or
- (ii) the operation of the storage site presents a fire danger or a threat to human health or the environment.

**R315-314-2. General Requirements.**

(1) Each owner and operator shall:

(a) comply with the applicable requirements of Section R315-302-2; and

(b) remove ~~[all]~~the solid waste from the pile at closure to another permitted facility.

(2) Requirements for ~~[S]~~solid ~~[W]~~waste ~~[L]~~likely to ~~[P]~~produce ~~[L]~~leachate.

(a) Waste piles shall be placed upon a surface such as sealed concrete, asphalt, clay, or an artificial liner underlying the pile to prevent subsurface soil and potential ~~[ground water]~~groundwater contamination and to allow collection of run-off and leachate. The

## NOTICES OF PROPOSED RULES

liner shall be designed of sufficient thickness and strength to withstand stresses imposed by pile handling vehicles and the pile itself.

(b) A run-off collection and treatment system shall be designed, installed, and maintained to collect and treat a 25-year storm event.

(c) Waste piles having a capacity of greater than 10,000 cubic yards shall have either:

(i) a ~~[ground-water]~~ groundwater monitoring system that complies with Rule R315-308; or

(ii) a leachate detection, collection, and treatment system.

(iii) For ~~[purposes of this subsection]~~ Subsection R315-314-2(2), capacity refers to the total capacity of ~~[all]~~ the leachate[-] generating piles at one facility, ~~[e.g.]~~ for example, two, 5,000 cubic yard piles will subject the facility to the requirements of ~~[this subsection]~~ Subsection R315-314-2(2).

(d) A run-on prevention system shall be designed and maintained to divert the maximum flow from a 25-year storm event.

(e) The ~~[D]~~ director may require that the entire base or liner shall be inspected for wear and integrity and repaired or replaced by removing stored wastes or otherwise providing inspection access to the base or liner; the request shall be in writing and cite the reasons including valid ~~[ground-water]~~ groundwater monitoring or leachate detection data leading to request ~~[such]~~ an inspection, repair, or replacement.

(f) Post-closure requirements.

(i) Within 30 days of closure, a facility shall:

(A) remove any piles, windrows, and any other material on the facility's property;

(B) remove or revegetate compacted material that may be left on the land;

(C) drain ponds or leachate collection system, if any, backfill, and assure removed contents are properly disposed;

(D) cover if necessary; and

(E) for any pile not meeting the requirements of Subsection R315-314-2(3) record with the county recorder as part of the record of title, a plat and statement of fact that the property has been used for a waste pile.

(ii) Unless the facility owner or operator demonstrates that the requirements of Section R315-301-6 are met and receives a waiver from the director, post-closure care and monitoring shall be for five years and shall consist of:

(A) the maintenance of any monitoring equipment and sampling and testing schedules as required by the director; and

(B) inspection and maintenance of any cover material.

(3) The length of time that solid waste may be stored in piles ~~[shall]~~ may not exceed ~~[+]~~ one year unless the ~~[D]~~ director determines that the solid waste may be stored in piles for a longer time period without becoming a threat to human health or the environment.

(4) The ~~[D]~~ director or an authorized representative may enter and inspect a site where waste is stored in piles as specified in Subsection R315-302-2(5)(b).

### **R315-314-3. Requirements for a Waste Tire Storage Facility.**

(1) The definitions of Section R315-320-2 are applicable to the requirements for a waste tire storage facility.

(2) No waste tire storage facility may be established, maintained, or expanded until the owner or operator of the waste tire storage facility has ~~[obtained]~~ received a permit from the ~~[D]~~ director. The owner or operator of the waste tire storage facility shall operate

the facility in accordance with the conditions of the permit and otherwise follow the permit.

(3) The owner or operator of a waste tire storage facility shall:

(a) submit the following for approval by the ~~[D]~~ director:

(i) the information required in ~~[Subsections]~~ Section R315-310-8;

(ii) a plan of operation as required by Subsection R315-302-2(2);

(iii) a plot plan of the storage site showing:

(A) the arrangement and size of the tire piles on the site;

(B) the width of the fire lanes and the type and location of the fire control equipment; and

(C) the location of any on-site buildings and the type of fencing to surround the site;

(iv) a financial assurance plan including the date that the financial assurance mechanism becomes effective; and

(v) a vector control plan;

(b) accumulate tires only in designated areas;

(c) control access to the storage site by fencing;

(d) limit individual tire piles to a maximum of 5,000 square feet of continuous area in size at the base of the pile;

(e) limit the individual tire piles to 50,000 cubic feet in volume or ~~[40]~~ ten feet in height;

(f) ~~[insure]~~ ensure that piles be at least ~~[40]~~ ten feet from any property line or any building and not exceed ~~[6]~~ six feet in height ~~[when]~~ if within 20 feet of any property line or building;

(g) provide for a 40 foot fire lane between tire piles that contains no flammable or combustible material or vegetation;

(h) effect a vector control program, if necessary, to minimize mosquito breeding and the harborage of other vectors such as rats or other animals;

(i) provide on-site fire control equipment that is maintained in good working order;

(j) display an emergency procedures plan and inspection approval by the local fire department and require ~~[at]~~ each employee[s] to be familiar with the plan;

(k) establish financial assurance for clean[-]up and closure of the site:

(i) in the amount of \$150 per ton of tires stored at the site; and

(ii) in the form of a trust fund, letter of credit, or other mechanism as approved by the ~~[D]~~ director;

(l) maintain a record of the number of:

(i) tires received at the site;

(ii) tires shipped from the site;

(iii) piles of tires at the site; and

(iv) tires in each pile; and

(m) meet the applicable reporting requirements of Subsection R315-302-2(4).

(4) Whole ~~[T]~~ tires ~~[S]~~ stored in a ~~[T]~~ tire ~~[F]~~ fence.

(a) Whole ~~[T]~~ tires stored in a tire fence are exempt from Subsections R315-314-3(3)(e), R315-314-3(3)(f), and R315-314-3(3)(g) but ~~[must]~~ shall:

(i) ~~[obtain]~~ get a permit from the ~~[D]~~ director as required by Subsection R315-314-3(2);

(ii) receive approval for establishing, maintaining, or expanding the tire fence from the local government and the local fire department and submit documentation of these approvals to the ~~[D]~~ director; and

(iii) maintain the fence no more than one tire wide and eight feet high.

(b) An owner of a tire fence may receive a waiver from the requirements of Subsection R315-314-3(4)(a)(i) if the ~~D~~director receives written notice from the owner of the tire fence on or before November 15, 1999 that documents and certifies that:

(i) the tire fence was in existence ~~prior to~~ before October 15, 1999; and

(ii) no tires have been added to the fence after October 14, 1999.

(5) Each tire recycler, as defined by Subsection 19-6-803(19), that stores tires in piles ~~prior to~~ before recycling shall comply with the following requirements:

(a) if the tire recycler documents that the waste tires are stored for five or fewer days, the tire recycler shall:

(i) meet the requirements of Subsections R315-314-3(3)(b) through R315-314-3(3)(g); or

(ii) ~~obtain~~ get a waiver from the requirements of Subsections R315-314-3(3)(b) through R315-314-3(3)(g) from the local fire department; or

(b) if the tire recycler does not document that the waste tires are stored for five or fewer days, the tire recycler shall be considered a waste tire storage facility and shall:

(i) meet the requirements of Subsections R315-314-3(2) and R315-314-3(3); and

(ii) the amount of financial assurance required by Subsection R315-314-3(3)(~~h~~)(k) shall be \$150 per ton of tires held as the average inventory during the preceding year of operation.

**KEY:** solid waste management, waste disposal

**Date of Last Change:** 2024~~April 25, 2013~~

**Notice of Continuation:** November 30, 2022

**Authorizing, and Implemented or Interpreted Law:** 19-6-104; 19-6-105; 19-6-108

#### NOTICE OF PROPOSED RULE

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R357-13-8</b>	<b>Filing ID:</b> <b>56205</b>
--------------------------------	------------------	-----------------------------------

#### Agency Information

<b>1. Department:</b>	Governor	
<b>Agency:</b>	Economic Opportunity	
<b>Room number:</b>	Suite 300	
<b>Building:</b>	World Trade Center	
<b>Street address:</b>	60 E South Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84111	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Dane Ishihara	801-792-8764	dishihara@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

#### General Information

##### 2. Rule or section catchline:

R357-13-8. Procedures for the Administration of the Hotel Impact Mitigation Fund

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

This rule filing clarifies the procedures for the administration of the Hotel Impact Mitigation Fund and makes technical changes.

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

Subsection R357-13-8(1) amends Go Utah to GOEO.

Subsection R357-13-8(2) clarifies that the application format is determined by the office.

Subsection R357-13-8(3) clarifies that the timeframe to calculate direct loss is October 1st to September 30th of each new claim year.

Subsection R357-13-8(4) clarifies that the applicant as to demonstrate:

- 1) that the hotel is located within one mile of 170 South West Temple, Salt Lake City;
- 2) baseline income is determined October 1, 2018, to September 30, 2019;
- 3) income is determined October 1st to September 30th of each claim year; and
- 4) the applicant has to have entered into a contract with the office.

Subsection R357-13-8(5) establishes how the office determines eligibility of claims.

#### 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. This rule is procedural in nature and participation in the program is optional.

###### B) Local governments:

This rule change is not expected to have a fiscal impact on local governments' revenues or expenditures because local governments are not required to comply with or enforce this rule.

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

This rule change will not have a fiscal impact on small businesses. This rule is procedural in nature and participation in the program is optional.

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

The proposed rule changes do not have a fiscal impact on non-small businesses, nor will a 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**):

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

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

There are no compliance costs for affected persons. The changes simply add clarification to requirements and policy with no fiscal impact on 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**

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

Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Executive Director of the Governor's Office of Economic Opportunity, Ryan Starks, 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 63N-2-509		
-------------------	--	--

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Ryan Starks, Executive Director	<b>Date:</b>	11/15/2023
---	---------------------------------	--------------	------------

**R357. Governor, Economic Development.****R357-13. Hotel Convention Center Incentive.****R357-13-8. Procedures for the Administration of the Hotel Impact Mitigation Fund.**

(1) Notification of the open mitigation application period will be posted on the GOEO[~~o Utah~~] website[;].

(2) An applicant who fails to apply for mitigation during the open application period, in a format and method provided by the office, will not be eligible for mitigation funds during that fiscal year[;].

(3) ~~Applications will be accepted f~~For four consecutive years, the Hotel Impact Mitigation Fund will accept applications per Subsection 63N-2-512(5)(a)(ii). An applicant must submit a new claim application each year, and the application must reflect the direct loss for October 1<sup>st</sup> to September 30<sup>th</sup> of the year claimed~~the preceding calendar year only. Any additional losses reported beyond the preceding calendar year's losses shall be discounted~~.



(4) To be determined eligible for reimbursement from the Hotel Impact Mitigation Fund, an applicant shall demonstrate:

(a) that the applicant is a hotel built in the state before July 1, 2014;

(b) that the hotel has experienced a direct loss as defined in Subsection 63N-2-512(1)(b); ~~and~~

(c) ~~[evidence of direct loss must clearly establish the link between the qualified hotel and the applicant's loss.]~~ that the hotel is located within one mile of the Hyatt Regency Salt Lake City located at 170 South West Temple; and

(d) ~~t[he]o show [the] direct [the] loss, the [the] applicant shall:~~

(i) ~~provide the applicant's baseline income, by source, between October 1, 2018 and September 30, 2019 [occupancy rates for the prior three years, by year];~~

(ii) ~~provide income by source for the October 1<sup>st</sup> to September of the claiming year [provide audited financial reports for the prior three years, by year];~~

(iii) ~~[provide Tax Return data showing that the Applicant has reported a financial loss] attest the information in the application is accurate;~~

(iv) ~~that the applicant entered into a contract with the office for the Hotel Impact Mitigation Fund [provide an audited statement showing the link between the qualified hotel and the applicant's direct loss, showing that the qualified hotel, and not any other factor, is responsible for the direct loss]; and~~

(v) apply during the open application period as set forth in Subsection (1).

(5) The office shall determine if an affected hotel claims are reasonable due to an increase in the supply of hotel rooms attributable to the opening of the Hyatt Regency Salt Lake City and may deny or reduce a claim for the following reasons:

(a) an affected hotel reduces the number of rooms available in a claim year;

(b) an affected hotel reduces or suspends operations of services that provides income to the hotel; and

(c) any other reduction or suspension of operations that would differ from the continuance of operations from the baseline period, as determined by the office.

(~~5~~)6 The Board shall annually pay up to \$2,100,000 of money in the mitigation fund:

(a) to affected hotels, on a pro rata basis, based on the amount of direct loss claimed and verified by the Office; and

(b) ~~[based on the unencumbered money available in the Hotel Impact Mitigation Fund for the fiscal year in which the applications are processed]~~ the processing of applications will be based on the unencumbered money available in the Hotel Impact Mitigation Fund for the fiscal year.

(~~6~~)7 The Board shall make any required payment within 90 days of the end of the application period, unless an applicant seeks agency review or good cause exists to extend the time.

(~~7~~)8 If an application for reimbursement by the Hotel Impact Mitigation Fund is denied, the entity may seek review by the Executive Director of the Governor's Office of Economic Opportunity, using the procedures set forth in the Utah Administrative Procedures Act, Section 63G-4-301. ~~[A review must be filed within five business days of notice by the Office that the application is denied]~~ Within five business days of receiving notice from the Office that the application has been denied, the applicant must file a review.

**KEY: hotel convention center incentives, tax credits**

**Date of Last Change: 2024[November 22, 2021]**

**Notice of Continuation: March 9, 2021**

**Authorizing, and Implemented or Interpreted Law: 63N-2-509**

## NOTICE OF PROPOSED RULE

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R380-50</b>	<b>Filing ID:</b> <b>56059</b>
--------------------------------	----------------	-----------------------------------

### Agency Information

<b>1. Department:</b>	Health and Human Services
<b>Agency:</b>	Administration
<b>Room number:</b>	4th Floor
<b>Building:</b>	MASOB
<b>Street address:</b>	195 N 1950 W
<b>City, state and zip:</b>	Salt Lake City, UT 84116

### Contact persons:

Name:	Phone:	Email:
Jonah Shaw	385 310- 2389	jshaw@utah.gov
Hudson Hanson	385 478- 0988	hmhanson@utah.gov

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

### General Information

#### 2. Rule or section catchline:

R380-50. Local Health Department Funding Allocation Formula

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

Following the consolidation of the Department of Health and Human Services (Department), the Department is working to amend and consolidate the Department's administrative rules.

The Department is amending this rule under Title R380.

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

This amendment is technical in nature and does not reflect substantive changes to the existing process for allocating Local Health Department funding.

### Fiscal Information

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

**A) State budget:**

This amendment will not result in a fiscal impact or benefit for the state budget. It is technical in nature and does not impact existing operations.

**B) Local governments:**

This amendment will not result in a fiscal impact or benefit for local governments. It is technical in nature and does not impact existing operations.

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

This amendment will not result in a fiscal impact or benefit for small businesses. It is technical in nature and does not impact existing operations.

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

This amendment will not result in a fiscal impact or benefit for non-small businesses. It is technical in nature and does not impact existing operations.

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

This amendment will not result in a fiscal impact or benefit for persons other than small businesses, non-small businesses, state, or local government. It is technical in nature and does not impact existing operations.

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

There are no compliance costs associated with this proposed amendment.

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

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

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

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

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis.

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

Section 26B-1-202		
-------------------	--	--

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

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

**9. This rule change MAY become effective on:**

01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	10/30/2023
---	-------------------------------------	--------------	------------



**R380. Health and Human Services, Administration.****R380-50. Local Health Department Funding Allocation Formula.****R380-50-1. Authority and Purpose.**

(1) ~~[This rule is being promulgated under the authority of] Section 26A-1-116 authorizes this rule, which directs the Utah Department of Health to establish by rule a formula for allocating funds by contract to local health departments.]~~

(2) This rule specifies the formula for allocating state-appropriated funds to local health departments by contract.

**R380-50-2. Definitions.**

(1) "Department" means the Utah Department of Health and Human Services. ~~["Multi-county Factor" means funds allocated to local health departments to encourage them to form and maintain multi-county health departments.]~~

(2) "Funds" means the State General Block Funds Maternal and Child Health Block grant funds, Preventive Block grant funds, immunization funds, bioterrorism ~~[and]~~ emergency preparedness and response funds, and tobacco funds, allocated by the Legislature to the ~~[Utah D]~~ department ~~[of Health]~~ for distribution to all participating local health departments by contract.

(3) "Local Health Department" means a local health department established under Subsection 26A-1-102(5).

(4) "Multi-county Factor" means funds allocated to local health departments to encourage them to form and maintain multi-county health departments.

(5) "Multi-county Health Department" means a local health department that is comprised of two or more contiguous counties as defined in Subsection 26A-1-102(7).

(6) "Participating local health department" means a local health department that accepts funds by contract from the ~~[D]~~ department.

(7) "Total State Population" means the population figures by county as provided by the State Office of Planning and Budget.

**R380-50-3. Allocation Procedures.**

(1) The amount of funds ~~the department allocates to the~~ ~~to be allocated between the department and~~ local health departments shall be determined by the Governance Committee as described in Section ~~[26-1-4(3)]~~ 26B-1-207.

(2) By a three-fourths vote of its members, the Utah Association of Local Health Officers may, in cooperation with and subject to the approval of the ~~[D]~~ department ~~[of Health]~~, allocate a portion of the funds as necessary to support public health programs within every participating local health department and are available to all eligible residents of the state. The ~~[D]~~ department finds that population is not the sole relevant factor in determining need.

(3) The ~~[D]~~ department adopts the following formula pursuant to Section 26A-1-116 for reallocating to local health departments any increases or decreases in funds ~~[as follows]~~:

(a) ~~a [M] minimum share, which is [Thirty-two percent]~~ 32% of the funds ~~[is]~~ divided into equal shares for each participating local health department ~~[as follows]~~:

(b) ~~[Population Factor: F]~~ fifty percent of the funds are divided among the local health departments based on the percentage of the total state population living within the geographical boundaries of the local health department according to the most current estimate from the Governor's Office of ~~[Management]~~ Planning and Budget. At a minimum, this factor will be evaluated after the official Census of the Population is released and four years after the official census

is released; and [At a minimum this factor will be evaluated after the official Census of the Population is released and four years after the official census is released.]

(c) ~~[Multi-county Factor: F]~~ eighteen percent of the funds are divided among multi-county health departments ~~[as follows]~~:

~~— (i) the~~ using a multi-county factor ~~[is]~~ made up of two equal parts, as follows:

(i) ~~[Number of counties: F]~~ half of the multi-county dollar amount, ~~is~~ divided by the total number of counties that make up all the multi-county health departments ~~[as follows]~~, ~~[F]~~ the number is multiplied by the number of counties in each multi-county health department ~~[as follows]~~; and

(ii) ~~[Population: F]~~ each multi-county health department's population, ~~[F]~~ based upon population figures provided by the Governor's Office of ~~[Management]~~ Planning and Budget ~~[as follows]~~, is divided by the total population of all the counties that make up all the multi-county health departments ~~[as follows]~~, ~~[F]~~ the number ~~[percent]~~ is multiplied by half of the multi-county dollar amount.

(d) ~~[F]~~ The department may, after consulting with the Governance Committee, alter the formula to address documented need established by valid and accepted data in one or more local health department jurisdictions.

~~— (i) At no time can a local health department receive more than ten times the per capita amount calculated under this formula than any other local health department.~~

(e) ~~[F]~~ The Governance Committee may include future funds in the funding formula in cases where the total program funding exceeds \$500,000.

**R380-50-4. Exceptions.**

(1) ~~(a)~~ If one or more counties of a multi-county health department withdraw from the multi-county health department pursuant to Subsection 26A-1-122(2), the department shall reallocate the funds allocated to the original multi-county health department under the formula specified in Section 26A-1-116, [will be reallocated] among the counties that made up that original multi-county health department.

(b) The department may not consider the [F] funds allocated to other local health departments [will not be considered] for reallocation unless the entire formula is reconsidered.

(2) The ~~[D]~~ department shall assist in this effort to assure an appropriate reallocation of funds.

(3) The department shall reconsider [F] the funding formula [will be reconsidered] at an appropriate time that assures the integrity of the statewide public health system with no additional interruption to statewide public health efforts.

**KEY: health, funding formula, local governments**

**Date of Last Change: 2024[July 3, 2018]**

**Notice of Continuation: October 31, 2022**

**Authorizing, and Implemented or Interpreted Law: 26A-1-116; 26A-1-122([A]2)**

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** New

**Rule or Section Number:**

**R380-67**

**Filing ID:**  
**55994**

**Agency Information**

1. Department:			Health and Human Services
Agency:			Administration
Building:			Cannon Health Building
Street address:			288 N 1460 W
City, state and zip:			Salt Lake City, UT 84116
Mailing address:			PO Box 142004
City, state and zip:			Salt Lake City, UT 84114-2004
Contact persons:			
Name:		Phone:	Email:
Michelle Hale		801-419-8892	mhale@utah.gov
Dean Penovich		801-913-2621	dpenovich@utah.gov
Please address questions regarding information on this notice to the persons listed above.			

**General Information**

<b>2. Rule or section catchline:</b>
R380-67. Code Blue Alert Protocols
<b>3. Purpose of the new rule or reason for the change:</b>
Subsection 35A-16-702(4) requires the Department of Health and Human Services (DHHS) to make rules to implement Section 35A-16-7, Code Blue Alert. This rule is the result of H.B. 499 passing in the 2023 General Session.
<b>4. Summary of the new rule or change:</b>
Following the passing of H.B. 499 (2023), Homeless Services Amendments, this rule establishes the requirements for DHHS to monitor for qualifying weather criteria and issue public and stakeholder notices that describe required actions by affected counties and relay other resources as provided by the Office of Homeless Services (OHS).
(EDITOR'S NOTES: A corresponding emergency (120-day) Rule R380-67 that is effective as of 11/09/2023 is under ID 56177 in this issue, December 1, 2023, of the Bulletin.)

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
Implementation of Section 35A-16-7 is anticipated to cost \$24,276 to develop the administrative structure, reporting

process with the National Weather Service (NWS), and configure messaging platforms.

Ongoing operations by DHHS in order to comply with Section 35A-16-7 is anticipated to cost \$28,834 to maintain the messaging platforms and daily monitoring and dissemination of code blue alerts during the winter months.

**B) Local governments:**

The implementation of this rule is the result of H.B. 499 (2023), costs or savings to local governments associated with this process were absolved in the fiscal note for H.B. 499 (2023).

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

The implementation of this rule is the result of H.B. 499 (2023), there are no costs or savings to small businesses associated with this process.

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

The implementation of this rule is the result of H.B. 499 (2023), there are no costs or savings to non-small businesses associated with this process.

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

The implementation of this rule is the result of H.B. 499 (2023), there are no costs or savings persons other than small businesses, non-small businesses, state, or local government entities.

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

There are no compliance costs associated with this rule and the implementation of H.B. 499 (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.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$53,110	\$28,834	\$28,834
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

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

**Citation Information**

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Subsection 26B-1-202(48)	Section 35A-16-703	Section 35A-16-702

**Public Notice Information**

<b>8. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
<b>A) Comments will be accepted until:</b>	01/03/2024
<b>9. This rule change MAY become effective on:</b>	
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	10/30/2023
---	--	--------------	------------

**R380. Health and Human Services, Administration.****R380-67. Code Blue Alert Protocols.****R380-67-1. Authority and Purpose.**

(1) Sections 26B-1-202, 35A-16-702, and 35A-16-703 authorize this rule.

(2) This rule establishes department processes for identification of code blue events through monitoring and evaluating forecasts, alerting the public and stakeholders, and identifying the municipalities that the code blue event applies to.

**R380-67-2. Definitions.**

(1) Definitions used in this rule are defined in Section 35A-16-701.

(2) "Code Blue Event" is defined in Section 35A-16-701 and applies to municipalities at or below 7,070 feet elevation.

(3) "Winter Response Period" is defined in Section 35A-16-501.

**R380-67-3. Identification of a Code Blue Event.**

(1) The department shall monitor and evaluate forecast data provided by the National Weather Service for identifying a code blue event.

(2) A code blue event applies only to municipalities in a county of the:

(a) first class with a population of 50,000 or more;

(b) second class with a population of 15,000 or more;

(c) third class with a population of 2,500 or more; and

(d) fourth class with a population of 1,500 or more.

**R380-67-4. Code Blue Alert Communication.**

(1) The department shall compile a code blue alert message with information provided by the Office of Homeless Services and the provisions that shall be in effect during the code blue alert as defined in Section 35A-16-703.

(2) Code blue alert message shall include the duration of the code blue alert.

(3) The department shall disseminate the code blue alert electronically, no less often than every 48 hours, to those entities listed in Subsection 35A-16-702(1).

(4) Municipalities affected by a code blue alert shall comply with provisions listed under Section 35A-16-703.

**R380-67-5. Code Blue Alert Coordination.**

(1) The Office of Homeless Services shall provide to the department prepared and updated information electronically as required by Subsection 35A-16-702(3) no less often than annually and when new information becomes available.

(2) First and second class counties shall include a process for coordinating street outreach efforts required in Subsection 35A-16-703(5), as a part of their Winter Response Plan in accordance with Title 35A, Chapter 16, Part 5, Winter Response Plan Requirements.

(3) The Office of Homeless Services shall ensure homeless shelters, state and local government entities, and any other organization listed in Subsection 35A-16-703(5) comply with the provisions listed in Section 35A-16-703 during the code blue alert.

**KEY:** health, human services, code blue**Date of Last Change:** 2024**Authorizing, and Implemented or Interpreted Law:** 26B-1-202;  
35A-16-7**NOTICE OF PROPOSED RULE****TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R414-140</b>	<b>Filing ID:</b> <b>56201</b>
--------------------------------	-----------------	-----------------------------------

**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Integrated Healthcare	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R414-140. Choice of Health Care Delivery Program
<b>3. Purpose of the new rule or reason for the change:</b>
The purpose of this change is to update and clarify the rule text as needed.
<b>4. Summary of the new rule or change:</b>
This amendment defines and clarifies mandatory counties, updates requirements to select a health plan, updates service coverage, and makes other technical changes.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There is no impact to the state budget as these changes do not affect services or reimbursement.

**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 these changes do not affect services or reimbursement.

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

There is no impact on non-small businesses as these changes do not affect services or reimbursement.

**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 these changes do not affect services or reimbursement.

**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 these changes do not affect services or reimbursement.

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

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

Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this fiscal analysis.			
Businesses will see neither costs nor revenue as these changes do not affect services or reimbursement.			

**Citation Information**

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Section 26B-1-213	Section 26B-3-108	

**Public Notice Information**

<b>8. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
<b>A) Comments will be accepted until:</b>	01/03/2024

<b>9. This rule change MAY become effective on:</b>	01/10/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	11/15/2023
---	-------------------------------------	--------------	------------

**R414. Health and Human Services, Integrated Healthcare [Health Care Financing, Coverage and Reimbursement Policy].****R414-140. Choice of Health Care Delivery Program.****R414-140-1. Introduction and Authority.**

This rule outlines the Choice of Health Care Delivery Program that operates under a freedom-of-choice waiver program authorized under 42 USC 1396n(b). [-]This program provides access to quality and cost-effective health care[-. This rule is required by

~~Utah Code Subsection]~~ and is required by Subsection 26B-[18]3-[3]108(2)(a).

**R414-140-2. Definitions.**

In addition to the definitions in Rule [The definitions in ]R414-1, the following definitions apply to this rule[-. In addition]:

(1) The "Choice of Health Care Delivery Program" (CHCDP) is a freedom-of-choice waiver program that allows the [D]department to require certain groups of Medicaid [clients]members living in Box Elder, Cache, Davis, Iron, Morgan, Rich, Salt Lake, Summit, Tooele, Utah, Wasatch, Washington, and Weber counties to select a health plan that provides services in accordance with the program's waiver. [-]The waiver limits freedom of choice in choosing a health care provider.

[- (2) An "Enrollee" in the CHCDP is a Medicaid client who lives in an urban county and is enrolled in a health plan.]

(2[3]) [A-]"Health Plan" in the CHCDP means[is] a federally defined prepaid inpatient health plan, a federally defined primary care case management system, or a federally defined managed care organization under contract with the [Utah D]department [of Health-]to provide health care services to members[enrollees].

(3[4]) [A "Managed-]Accountable Care Organization" ([M]ACO) means [is-]an entity that has a comprehensive risk contract with the [D]department to make the services it provides to its Medicaid members[enrollees] as accessible, [(in terms of timeliness, amount, duration, and scope)], as those services are to other Medicaid [clients]members within the area served by the entity. [ ]The CHCDP requires MCOs to provide or arrange for services described in the CHCDP.

(4) "Member" in the CHCDP means an individual enrolled in Medicaid who lives in a mandatory county and is enrolled in a health plan.

(5) "Prepaid Inpatient Health Plan" (PIHP) means [is-]an entity that contracts with the [D]department under a non-risk arrangement to provide services described in the CHCDP to Medicaid members[-enrollees].

(6) "Primary Care Case Management" (PCCM) means [is] a system under which a physician or other provider contracts with the [S]state to furnish case management services and to provide access to services described in the CHCDP.

(7) "Section 1931" means [is-]the section of the Social Security Act that raises the income limits for Medicaid eligibility.

(8) ["Urban county" means a county with a population greater than 175,000.]"Mandatory county" means a county that either meets the population requirement of greater than 175,000, or is a county adjacent to a county that meets that requirement, where Medicaid members must choose an ACO to receive medical services.

[- (9) "1115 Demonstration for the Primary Care Network of Utah" is a statewide demonstration waiver that expands Medicaid coverage to adults ages 19 and older who would not otherwise qualify for Medicaid. The two groups of individuals covered under the 1115 Demonstration are Primary Care Network individuals and Non-Traditional Medicaid individuals. Primary Care Network individuals are those who meet certain income requirements who would not otherwise qualify for Medicaid. Non Traditional Medicaid individuals are those who are ages 19 and older and are not elderly, disabled or pregnant.]

**R414-140-3. Requirement to Select a Health Plan.**

(1) The following Medicaid [clients]members living in [urban-]mandatory counties are required to select a health plan:



## NOTICES OF PROPOSED RULES

(a) Section 1931 children under ~~[the age of 19]~~ 19 years of age;

- (b) pregnant women;
- (c) blind or disabled children and adults;
- (d) aged populations;
- (e) foster care children; and
- (f) adult expansion.

~~[-] (f) Non-Traditional Medicaid enrollees covered under the 1115 Demonstration for the Primary Care Network of Utah.]~~

### R414-140-4. Restrictions on Changes in Enrollment.

(1) The [D]department must give Medicaid ~~[clients]~~ members a choice of at least two health plans. [-]Each new applicant for Medicaid in ~~[the urban-]~~ mandatory counties is offered an orientation about Medicaid and the Choice of Health Care Delivery Program. [-]A health program representative employed by the [D]department conducts the orientation and also enrolls Medicaid ~~[clients]~~ members in a health plan. [-]During the orientation the ~~[clients]~~ members are presented with health plan options.

(2) The [D]department restricts the disenrollment rights of ~~members~~ enrollees who are required to enroll with a health plan in accordance with the regulations at 42 CFR 438.56. [-]Disenrollment rights are restricted for a period of up to 12 months with the following exceptions:

(a) during the first three months of the ~~member's~~ enrollee's initial enrollment with a health plan, the ~~member~~ enrollee may select a different health plan without cause;

(i) if the ~~member~~ enrollee moves out of the health plan's service area;

(ii) if the ~~member~~ enrollee requests to select a different health plan for good cause and the [D]department approves the request; or

(iii) if the ~~member~~ enrollee chooses a different health plan during the [D]department's annual disenrollment period.

### R414-140-5. Service Coverage.

(1) Health plans shall provide ~~[all]~~ medically necessary services covered under the State Medicaid Plan except:

- (a) dental services;
- (b) chiropractic services;
- (c) long-term care services in skilled nursing facilities longer than 30 days with the exception of ~~[clients]~~ members enrolled in the Medicaid Long-Term Care Managed Care Program;
- (d) psychological services;
- (e) services covered under the Prepaid Mental Health Plan;
- (f) substance abuse treatment services; and
- (g) transportation services[;].

~~[-] (2) Medicaid enrollees who are covered under the Non-Traditional Medicaid Plan are limited to the scope of services as defined in the 1115 Demonstration for the Primary Care Network of Utah.]~~

### R414-140-6. Qualified Providers.

The [D]department selects managed care organizations, prepaid inpatient health plans, or primary care case management systems through an open cooperative procurement process in which any qualifying MCO, PIHP, or PCCM system may request to contract with the [D]department to provide services covered under the CHCDP.

### R414-140-7. Reimbursement Methodology.

The PIHPs are paid under a non-risk arrangement as described in 42 CFR 447.362. [-]The [D]department's payments to the health plans may not exceed what the [D]department would have paid on a fee-for-service basis for services furnished to health plan ~~members~~ enrollees plus the net savings of administrative costs the [D]department achieves by contracting with the health plans instead of purchasing the services on a fee-for-service basis. [-]The PCCM providers are paid under a fee-for-service arrangement. [-]In addition, a fee is paid to cover the provision of case management services.

**KEY: Medicaid**

**Date of Last Change:** ~~2024~~ September 16, 2004

**Notice of Continuation:** June 5, 2019

**Authorizing, and Implemented or Interpreted Law:** ~~26B-1-51213; 26B-14813-3108~~

#### NOTICE OF PROPOSED RULE

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R436-9</b>	<b>Filing ID:</b> <b>56173</b>
--------------------------------	---------------	-----------------------------------

#### Agency Information

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Data, Systems and Evaluation, Vital Records and Statistics	
<b>Room number:</b>	140	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 141012	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1012	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Linda S. Wininger	801-538-6262	Lindaw@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

#### General Information

##### 2. Rule or section catchline:

R436-9. Persons and Institutions Required to Keep Monthly Listings of Vital Statistics Events

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

Recodification requires changes to citations and to add penalties for the violation of this rule.

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

Changes the citation to match the new numbering of the law.

Adds penalties for:

- 1) Failure to compare and reconcile monthly record of births that occurred by hospitals, birthing centers, and midwives.
- 2) Failure to send monthly report of births to the State Registrar.
- 3) Failure to keep files of necessary information needed to complete birth certificates for these deliveries.

**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 the penalty added to this rule is expected to be a deterrent to failure to report births or keep the necessary information to complete birth certificates by those delivering babies. The change in citations is clerical.

**B) Local governments:**

This rule is not expected to have a fiscal impact on local governments' revenues or expenditures. This rule change defines a penalty for rule violation that was previously in Rule R436-16, Penalties.

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

This rule change will not have a fiscal impact on small businesses unless they violate the law.

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

This rule change will not have a fiscal impact on non-small businesses unless they violate the law.

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

This amendment will affect those people who deliver babies and do not report the births to the State Registrar's office or keep the necessary information needed to complete birth certificates for these deliveries. These people would be violating the law.

**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. The change adds a penalty for not reporting births to the State Registrar or keeping the necessary information needed to complete birth certificates for these deliveries.

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

**Regulatory Impact Table**

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

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

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this 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-8-120	Section 26B-8-122	Section 26B-8-126
Section 26B-1-224		



**Public Notice Information**

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	10/28/2023
---	--	--------------	------------

**R436. Health and Human Services, Data, Systems and Evaluation, Vital Records and Statistics**~~[Center for Health Data, Vital Records and Statistics]~~.

**R436-9. Persons and Institutions Required to Keep Monthly Listings of Vital Statistics Events.**

**R436-9-1. Purpose and Authority.**

(1) This rule sets forth the requirements for birthing facilities, and midwives to keep a list of births and reconcile it with a report from the electronic birth registration system.

(2) Authority for this rule is found in Section ~~[26-2-5]~~26B-8-126.

**R436-9-2. Persons and Institutions Required to Keep Monthly Listings of Vital Statistics Events.**

~~[(1) Hospitals and birthing centers shall compare and reconcile the monthly record of the births that occurred in their facilities and a report generated from the electronic birth registration system. Midwives shall do the same for births they attended during the month.~~

~~\_\_\_\_\_ (2) Any discrepancies shall be rectified.~~

~~\_\_\_\_\_ (3) The report will be signed by the facility representative or midwife and sent to the State Registrar by the tenth day of the following month whether or not there are discrepancies.~~

~~\_\_\_\_\_ (4) The facilities mentioned in this section shall gather and keep in their files all the information needed to complete the birth certificates for these deliveries.~~

~~\_\_\_\_\_ (5) Midwives shall include in their monthly report, on a form provided by the State Registrar, a report of births where the mother, baby, or both were transported to a medical facility.]~~

(1)(a) A hospital or birthing center shall compare and reconcile the monthly list of the births that occurred in their facilities with the electronic birth registration system report of births occurring in their facility.

(b) A midwife shall compare and reconcile the monthly list of births they attended during the month not occurring in a hospital or birthing center with the electronic birth registration system report of births they attended.

(2) A hospital, birthing center, or midwife shall add any births not found in the report to the electronic birth registration system.

(3) The facility representative or midwife shall sign and send the electronic birth registration system report of births occurring in their facility or attended by them to the state registrar by the tenth day of the following month whether or not there are discrepancies.

(4) A facility or midwife in this section shall collect and store in the facility files any information needed to complete the registration of births for 2 years.

(5) A midwife shall include in their monthly report, on a form provided by the state registrar, a report of births where the mother, baby, or both were transported to a medical facility.

**R436-9-3. Penalty for Failing to Complete a Required Monthly Record and Reporting of Births.**

A facility, facility representative, or midwife violates this rule and is subject to the penalties provided in Section 26B-1-224, including both administrative and civil penalties if they:

(1) fail to keep a monthly record of births occurring in the hospital, birthing center, or delivered by a midwife;

(2) fail to submit the monthly record of births to the state registrar; or

(3) fail to keep files of necessary information to complete birth certificates for deliveries occurring in the hospital, birthing center, or by a midwife.

**KEY: vital statistics, health facilities, funeral industries**

**Date of Last Change: 2024**~~[March 16, 2022]~~

**Notice of Continuation: March 21, 2023**

**Authorizing, and Implemented or Interpreted Law: [26-2-46]26B-8-120; [26-2-48]26B-8-122; [26-2-23]26B-8-126; 26B-1-224**

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** New

<b>Rule or Section Number:</b>	<b>R527-220</b>	<b>Filing ID:</b> <b>56187</b>
--------------------------------	-----------------	-----------------------------------

**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Recovery Services	
<b>Building:</b>	TSOB	
<b>Street address:</b>	4315 S 2700 W, 1st Floor	
<b>City, state and zip:</b>	Taylorsville, UT 84129	
<b>Mailing address:</b>	PO Box 45033	
<b>City, state and zip:</b>	Salt Lake City, UT 84145-0033	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Casey Cole	801-741-7523	cacole@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:

R527-220. Parental Support for Children in Care

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

Due to the consolidation of the Department of Health and Human Services (DHHS) and the recodification of the Title R495 rules, this rule is being proposed.

This rule was recently Rule R495-879 which is being repealed.

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

This rule is being proposed as a new rule in Title R527 for Recovery Services.

### Fiscal Information

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

##### A) State budget:

No impact on state budgets. This filing is due to the consolidation and recodification of the DHHS's code from the 2023 General Session.

It will not result in a fiscal impact because this rule was already in place as Rule R495-879, and the proposal of this filing is technical in nature.

##### B) Local governments:

No impact on local governments. This filing is due to the consolidation and recodification of the DHHS's code from the 2023 General Session.

It will not result in a fiscal impact because this rule was already in place as Rule R495-879, and the proposal of this filing is technical in nature.

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

No impact on small businesses. This filing is due to the consolidation and recodification of the DHHS's code from the 2023 General Session.

It will not result in a fiscal impact because this rule was already in place as Rule R495-879, and the proposal of this filing is technical in nature.

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

No impact on non-small businesses. This filing is due to the consolidation and recodification of the DHHS's code from the 2023 General Session.

It will not result in a fiscal impact because this rule was already in place as Rule R495-879, and the proposal of this filing is technical in nature.

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

No impact on other persons. This filing is due to the consolidation and recodification of the DHHS's code from the 2023 General Session.

It will not result in a fiscal impact because this rule was already in place as Rule R495-879, and the proposal of this filing is technical 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 associated with this proposed rule.

This filing is technical in nature and will not impact current processes as this rule currently exists as Rule R495-879.

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

#### Regulatory Impact Table

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

## NOTICES OF PROPOSED RULES

Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis.			

## Citation Information

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Section 26B-1-202	Section 26B-9-411	Section 63G-4-102
Section 78A-6-104	Section 78A-6-356	Section 78B-12-106
Section 78B-12-108	Title 78B, Chapter 12, Parts 2 and 3	Rule R527-200
Section R527-221-3		

## Public Notice Information

<b>8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)</b>	
<b>A) Comments will be accepted until:</b>	01/03/2024
<b>9. This rule change MAY become effective on:</b>	
01/10/2024	
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

## Agency Authorization Information

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	10/27/2023
---	-------------------------------------	--------------	------------

**R527. Health and Human Services, Recovery Services.**
**R527-220. Parental Support for Children in Care.**
**R527-220-1. Authority and Purpose.**

(1) The Department of Health and Human Services may create rules necessary for the provision of social services by Section 26B-1-202.

(2) The purpose of this rule is to provide information to parents relating to the establishment and enforcement of child support when a child is placed in an out-of-home program.

**R527-220-2. Child Support Liability.**

(1) The Office of Recovery Services (ORS) will establish and enforce child support obligations against parents whose children are in out-of-home placement programs administered by the Department of Health and Human Services. The department shall consider fees for outpatient and day services separate from child support payments.

(2) Establishment and enforcement of child support shall be pursuant to Title 78B, Chapter 12, Utah Child Support Act, Title 26B, Chapter 9, Recovery Services and Administration of Child Support, and Section 78A-6-356.

**R527-220-3. Child Support Guidelines.**

Child support obligations shall be calculated pursuant to Title 78B, Chapter 12, Part 2, Calculation and Adjustment, and Part 3, Tables.

**R527-220-4. Establishing and Modifying an Order.**

ORS may modify and establish child support orders pursuant to Title 26B, Chapter 9, Part 2, Child Support Services, Title 63G, Chapter 4, Administrative Procedures Act, Section 78A-6-104, and Rule R527-200.

**R527-220-5. Good Cause Waiver Request.**

(1) A waiver request may be made when:

(a)(i) the order is established and the requesting agency does not intend to waive the child support for both parents; or

(ii) an order has not been established and the requesting agency intends to waive the child support for both parents;

(b) ORS collects the child support on behalf of the state; and

(c) child support collections interfere with family reunification efforts or when unpreventable loss of income to the present family creates an undue hardship.

(2) A loss of income described in Subsection (1)(c) may include non-payment of child support from the other parent for the children at home, loss of employment, or loss of monthly pension or annuity payments.

(3) The requesting agency's caseworker shall initiate the waiver request and forward it to their supervisor, regional director, division director, or designee for approval.

(4) After a support order has been established, if required, the requesting agency may approve or deny the Good Cause Waiver request at any stage in the process. The supervisor, regional director, division director, or designee described in Subsection (3) may not approve the waiver request when it proposes actions that are contrary to state or federal law. Once all levels in the requesting agency have approved the waiver, the division director or designee shall send the waiver to the ORS director or designee.

(5) The ORS director or designee will review the waiver request, and if appropriate, ORS will stop collection efforts and close the child support cases intended to reimburse the state for time in custody. ORS will notify the caseworker for the requesting agency that the waiver has been processed. The requesting agency will notify the family of the final decision.

#### **R527-220-6. Child Support and Adoption Assistance.**

ORS will establish and enforce child support obligations for parents who are currently receiving adoption assistance or who have received adoption assistance from this state or any other state or jurisdiction, for children who are in the custody of the state, pursuant to Sections 78A-6-356, 78B-12-106, R527-220-2 and R527-221-3. If an order for support does not currently exist, ORS will establish a monthly child support obligation. When establishing a child support obligation, ORS will not include the adoption assistance amount paid to the family in determining the family's income.

**KEY:** child support, custody of children, good cause

**Date of Last Change:** 2024

**Authorizing, and Implemented or Interpreted Law:** 26B-1-202; 26B-6-411; Title 26B, Chapter 9; 63G-4-102; 78A-6-104; 78A-6-356; 78B-12-106; 78B-12-108; Title 78B, Chapter 12, Parts 2 and 3; R527-200; R527-221-3

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

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R590-164-5</b>	<b>Filing ID:</b> <b>56200</b>
--------------------------------	-------------------	-----------------------------------

#### **Agency Information**

<b>1. Department:</b>	Insurance	
<b>Agency:</b>	Administration	
<b>Room number:</b>	Suite 2300	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S 2700 W	
<b>City, state and zip:</b>	Taylorsville, UT 84129	
<b>Mailing address:</b>	PO Box 146901	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6901	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Gooch	801-957-9322	sgooch@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

#### **General Information**

<b>2. Rule or section catchline:</b>
R590-164-5. Electronic Data Interchange Transactions

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

The rule is being updated to incorporate by reference one new standard and three updated versions of existing standards.

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

The main changes add a new standard -- Metabolic Dietary Products Standard -- and update three existing standards to reflect new version numbers and issue dates.

Other changes make stylistic and clerical fixes.

#### **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 updates to the incorporated standards are clerical only.

##### **B) Local governments:**

There is no anticipated cost or savings to local governments. The updates to the incorporated standards are clerical only.

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

There is no anticipated cost or savings to small businesses. The updates to the incorporated standards are clerical only.

##### **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 updates to the incorporated standards are clerical only.

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

There is no anticipated cost or savings to any other person. The updates to the incorporated standards are clerical only.

##### **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 updates to the incorporated standards are clerical only.

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

**Regulatory Impact Table**

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

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

The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.

**Citation Information**

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

Section 31A-2-201	Section 31A-22-614.5	
-------------------	----------------------	--

**Incorporations by Reference Information**

**7. Incorporations by Reference:**

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

<b>Official Title of Materials Incorporated (from title page)</b>	Health Identification Card Standard
<b>Publisher</b>	Utah Health Information Network
<b>Issue Date</b>	11/11/2023
<b>Issue or Version</b>	1.3

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

<b>Official Title of Materials Incorporated (from title page)</b>	Metabolic Dietary Products Standard
<b>Publisher</b>	Utah Health Information Network
<b>Issue Date</b>	11/11/2023
<b>Issue or Version</b>	2.1

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

<b>Official Title of Materials Incorporated (from title page)</b>	Transparency Denial Standard
<b>Publisher</b>	Utah Health Information Network
<b>Issue Date</b>	11/11/2023
<b>Issue or Version</b>	2.0

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

<b>Official Title of Materials Incorporated (from title page)</b>	Transparency Administration Performance Standard
<b>Publisher</b>	Utah Health Information Network
<b>Issue Date</b>	11/11/2023
<b>Issue or Version</b>	2.0

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------



<b>9. This rule change MAY become effective on:</b>	01/10/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	11/15/2023
---	---	--------------	------------

**R590. Insurance, Administration.****R590-164. Uniform Health Billing Rule.****R590-164-5. Electronic Data Interchange Transactions.**

(1)(a) The commissioner shall use the UHIN Standards Committee to develop electronic data interchange standards for use by payers and providers transacting health insurance business electronically.

(b) In developing standards for the commissioner, the UHIN Standards Committee shall consult with national standard-setting entities including CMS, NUCC, ASC X12N, NCPDM, and NUBC.

(2) ~~[A standard adopted by the UHIN Standards Committee may not be required for use by payers and providers until incorporated by the commissioner in rule.]~~ The commissioner shall incorporate a standard adopted by the UHIN Standards Committee into rule before it is required for use by payers and providers.

(3) A payer shall accept the applicable electronic data if transmitted in accordance with the electronic data interchange standard that is incorporated in rule.

(4) A payer may reject electronic data if not transmitted in accordance with the electronic data interchange standard that is incorporated in rule.

(5) The ~~following~~ HIPAA+ electronic data interchange standards described in this Subsection (5) and adopted by the UHIN Standards Committee are incorporated by reference by the commissioner and are available at <https://insurance.utah.gov>.

(a) "999 Implementation Acknowledgement For Health Care Insurance Standard v3.4." ~~[Purpose: To-]~~ The purpose of the standard is to detail the standard transaction for the reporting of transmission receipt and transaction or functional group X12 and implementation guide error[; adopts], and adopt the use of the ASC X12 999 transaction.

(b) "Adaptive Behavior Services/Applied Behavior Analysis (ABA) Billing Standard" v3.1." ~~[Purpose: To-]~~ The purpose of the standard is to detail the billing for the transmission of ABA services.

(c) "Administrative Transaction Acknowledgements Standard v3.1." ~~[Purpose: To-]~~ The purpose of the standard is to create a process for acknowledging all electronic transactions between trading partners based on the communication, syntax, semantic, and business process specifications.

(d) "Anesthesia Standard v3.1." ~~[Purpose: To-]~~ The purpose of the standard is to standardize the transmission of anesthesia data for health care services[;]. The standard does not alter any contractual agreement between providers and payers.

(e) "Benefits Enrollment and Maintenance Standard v3.1." ~~[Purpose: To-]~~ The purpose of the standard is to detail the standard transactions for the transmission of health care benefits enrollment and maintenance.

(f) "Claim Acknowledgement Standard v3.2." ~~[Purpose: To-]~~ The purpose of the standard is to provide a standardized claim acknowledgement in response to a claim submission[;], which is used to report on the status of a claim or encounter at the pre-adjudication processing stage, for example, before the payer is legally required to keep a history of the claim or encounter.

(g) "Claim Status Inquiry and Response Standard v3.2." ~~[Purpose: To-]~~ The purpose of the standard is to detail the standard transactions for the transmission of health care claim status inquiries and response[; allows], allow the provider to reduce the need for claim follow-up, and facilitate the correction of claims.

(h) "CMS 1500 Paper Claim Form Standard v3.3." ~~[Purpose: To-]~~ The purpose of the standard is to describe the standard use of each [Box,] box for print images, and its crosswalk to the HIPAA 837 005010X222A1 Professional implementation guide.

(i) "Coordination of Benefits Standard v3.2." ~~[Purpose: To-]~~ The purpose of the standard is to streamline the coordination of benefits process between payers and providers or payer to payers[; defines], define the data to be exchanged for coordination of benefits, and to increase effective communications.

(j) "Dental Claim Billing Standard -- J430 v4." ~~[Purpose: To-]~~ The purpose of the standard is to describe the standard use of each item number[;] for print images, and its crosswalk to the HIPAA 837 005010x02241A1 dental implementation guide[; adopts], and adopt the ADA dental Claim Form J340.

(k) "Electronic Remittance Advice Standard v3.5." ~~[Purpose: To-]~~ The purpose of the standard is to detail the standard [transactions] transaction for the transmission of a health care remittance [advices] advice.

(l) "Eligibility Inquiry and Response Standard v3.3." ~~[Purpose: To-]~~ The purpose of the standard is to detail the standard transactions for the transmission of a health care eligibility [inquiries and responses] inquiry and response.

(m) "Health Care Claim/Encounter Standard v3.2." ~~[Purpose: To-]~~ The purpose of the standard is to detail the standard [transactions] transaction for the transmission of a health care [claims and encounters] claim, encounter, and an associated [transactions] transaction.

(n) "Health Identification Card Standard v1.[2]3." ~~[Purpose: To-]~~ The purpose of the standard is to standardize the patient health identification card information[; addresses], and address the human-readable appearance and machine-readable information used by the healthcare industry to obtain eligibility.

(o) "Health Plan Identifier (HPID) and Other Entity Identifier (OEID) Standard v1.1." ~~[Purpose: To-]~~ The purpose of the standard is to inform providers of the HPID and OEID and their usage within the administrative transactions.

(p) "Home Health Standard v3.1." ~~[Purpose: To-]~~ The purpose of the standard is to provide a uniform standard of billing for a home health care [claims and encounters] claim and encounter.

(q) "ICD-10 Standard v1.2." ~~[Purpose: To-]~~ The purpose of the standard is to create the business requirement for [payers] a payer and [providers] a provider to implement the International Classification of Diseases 10th Revisions, ICD-10, within the administrative transaction.

(r) "Individual Name Standard v2.1." ~~[Purpose: To-]~~ The purpose of the standard is to provide guidance for entering names into provider, payer, or sponsor systems for [patients, enrollees,] a patient, enrollee, and any other [people] person associated with [these records] a record.

## NOTICES OF PROPOSED RULES

(s) "Metabolic Dietary Products Standard v2.1." The purpose of the standard is to provide a uniform standard for the billing of a metabolic dietary product.

(t) "NPI and Atypical Provider Standard v3.1." ~~[Purpose: To]~~ The purpose of the standard is to inform [providers] a provider of the national provider identifier requirements and the usage within [the transactions] a transaction.

(u) "Pain Management Standard v3.1." ~~[Purpose: To]~~ The purpose of the standard is to provide a uniform method of submitting a pain management [claims, encounters, pre-authorizations, and notifications] claim, encounter, pre-authorization, and notification.

(v) "Patient Identification Number v3.0." ~~[Purpose: To]~~ The purpose of the standard is to describe the standard for the patient identification number.

(w) "Premium Payment v3.0." ~~[Purpose: To]~~ The purpose of the standard is to detail the standard [transactions] transaction for the transmission of a premium [payments] payment.

(x) "Prior Authorization/Referral Standard v3.0." ~~[Purpose: To]~~ The purpose of the standard is to provide general recommendations to payers and providers about handling an electronic prior authorization and [referrals] referral.

(y) "Required Unknown Values Standard v3.0." ~~[Purpose: To]~~ The purpose of the standard is to provide guidance for the use of common data values that can be used within the HIPAA [transactions] transaction when a required data element is not known by the provider, payer, or sponsor for [patients, enrollees,] a patient, enrollee, and any other [people] person associated with [these transactions; these] the transaction. The data values should only be used when the data is not available or known and may not be used to replace known data.

(z) "Telehealth Standard v3.2." ~~[Purpose: To]~~ The purpose of the standard is to provide a uniform standard of billing for a health care [claims and encounters] claim and encounter delivered [via] through telehealth.

(aa) "Transparency Administration Performance Standard v[1-9]2.0." ~~[Purpose: To]~~ The purpose of the standard is to establish performance measures that report the average telephone answer time and claim turnaround time.

(ab) "Transparency Denial Standard v[1-9]2.0." ~~[Purpose: To]~~ The purpose of the standard is to establish performance measures that report the number and cost of an insurer's denied health claims and to provide guidance pertaining to the reporting method and timeline.

(ac) "UB04 Form Locator Elements v3.0." ~~[Purpose: To]~~ The purpose of the standard is to describe the use of each form locator in the UB-04 claim billing form and its crosswalk to the HIPAA 837 005010X223A2 institutional implementation guide.

**KEY:** insurance law

**Date of Last Change:** ~~[February 8, 2023]~~ **2024**

**Notice of Continuation:** March 6, 2020

**Authorizing, and Implemented or Interpreted Law:** 31A-22-614.5

### NOTICE OF PROPOSED RULE

**TYPE OF FILING:** New

<b>Rule or Section Number:</b>	<b>R650-201</b>	<b>Filing ID:</b> <b>56079</b>
--------------------------------	-----------------	-----------------------------------

### Agency Information

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Outdoor Recreation	
<b>Room number:</b>	100	
<b>Building:</b>	Department of Natural Resources Building	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ty Hunter	801-440-5106	tyhunter@utah.gov
India Nielsen Barfuss	385-268-2570	indianielsen@utah.gov
JC Bailey	801-538-7361	jcbailey@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

### General Information

<b>2. Rule or section catchline:</b>
R650-201. Definitions
<b>3. Purpose of the new rule or reason for the change:</b>
The Division of Outdoor Recreation, the agency mandated by Title 73, Chapter 18, to oversee the State Boating Act, clarifies the definitions of boating in this rule.
<b>4. Summary of the new rule or change:</b>
This new rule will clean up rule language to fit administrative rules standards and harmonize state definitions with the Federal Code of Regulations.
This rule previously existed under Title R651.

### Fiscal Information

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There are no anticipated costs or savings to the state budget.
This rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.



**B) Local governments:**

There are no anticipated costs or savings to the local governments associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

There are no anticipated costs or savings to the small businesses associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

The proposed rule does not have a fiscal impact on non-small businesses, nor will a service be required of them to implement this rule.

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

There are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

**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 anticipated compliance costs for affected persons. This rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

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

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

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

The Executive Director of the Department of 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:**

Title 73, Chapter 18		
-------------------------	--	--

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

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

**9. This rule change MAY become effective on:**

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jason Curry, Director	<b>Date:</b>	10/13/2023
---	--------------------------	--------------	------------

**R650. Natural Resources, Outdoor Recreation.****R650-201. Definitions.****R650-201-1. Definitions.**

As used in Title R650:

(1) "Approved" means:

(a) when used to refer to marine equipment, that the equipment is approved by the commandant of the United States Coast Guard; and

(b) when used to refer to carburetor backfire flame control devices, that the device is marked with one of the following:

(i) a U.S. Coast Guard approval number;

(ii) a marking that shows the device complies with Underwriters Laboratory test UL 1111; or

(iii) a marking that shows the device complies with the Society of Automotive Engineers test SAE J-1928.

(2) "Commission" means the Outdoor Adventure Commission created in Section 63C-21-201.

(3) "Division" means the Division of Outdoor Recreation.

(4) "Good and serviceable condition" means, when used to refer to equipment required by Title 73, Chapter 18, State Boating Act, or Rules R650-201 through R650-228, and that the equipment is:

(a) in proper operating condition;

(b) that any required labels and markings are intact and legible; and

(c) that any required equipment is not stored inside original packaging.

(5) "Immediately available," when used to refer to equipment, means the equipment is stored in plain and open view in the area where the equipment is used, such that the equipment is not obstructed, blocked, or covered, and that the equipment is capable of being quickly deployed.

(6) "Low-Capacity Vessel" means a manually propelled vessel designed or intended to carry no more than two occupants.

(7) "Readily accessible" means easily located and retrieved without delay or hinderance or need for a search.

(8) "Sailboard" means a wind-propelled vessel with a mast and sail that is held up by the operator who stands while operating the vessel.

(9)(a) "Serviceable condition" means, when used to refer to a PFD, that the PFD does not exhibit deterioration that could diminish the performance of the PFD, including:

(i) metal or plastic hardware used to secure the wearer's PFD that is broken, deformed, or weakened by corrosion;

(ii) webbing or straps used to secure the wearer's PFD that are ripped, torn, or which have become separated from an attachment point on the PFD; or

(iii) any other rotted or deteriorated structural component that fails when tugged.

(b) In addition to meeting the requirements of Subsection R650-201-1(9)(a), no inherently buoyant PFD, including the inherently buoyant components of a hybrid inflatable PFD, may exhibit:

(i) rips, tears, or open seams in fabric or coatings, that are large enough to allow the loss of buoyant material;

(ii) buoyant material that has become hardened, non-resilient, permanently compressed, waterlogged, oil-soaked, or which shows evidence of fungus or mildew; or

(iii) loss of buoyant material or buoyant material that is not securely held in position.

(c) In addition to meeting the requirements of Subsection R650-201-1(9)(a), an inflatable PFD, including the inflatable components of a hybrid inflatable PFD, must be equipped with:

(i) except as provided in Subsection R650-201-1(9)(a), a properly armed inflation mechanism, complete with a full inflation medium cartridge, and all status indicators showing that the inflation mechanism is properly armed;

(ii) inflatable chambers that are all capable of holding air;

(iii) oral inflation tubes that are not blocked, detached, or broken;

(iv) a manual inflation lanyard or lever that is not inaccessible, broken, or missing; and

(v) inflator status indicators that are not broken or otherwise non-functional.

(d) The inflation system of an inflatable PFD need not be armed when the PFD is worn inflated and otherwise meets the requirements of Subsections (9)(a) and (9)(c).

(10) "Towed" or "towing" means:

(a) to pull a person behind a vessel on a device attached to the vessel; or

(b) to use a vessel to propel a person while wakesurfing.

(11) "Underway" means the vessel that is on the water and not moored, anchored, docked, or aground.

(12) "Wakesurfing" means the act of using a surfboard, wakeboard, or similar device while being propelled by a vessel's wake, or while riding on or in a vessel's wake directly behind a vessel that is underway.

**KEY: boating, outdoor recreation**

**Date of Last Change: 2024**

**Authorizing, and Implemented or Interpreted Law: 73-18**

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** New

**Rule or Section Number:**

**R650-202**

**Filing ID:**  
**56080**

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Outdoor Recreation	
<b>Room number:</b>	100	
<b>Building:</b>	Department of Natural Resources Building	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ty Hunter	801-440-5106	tyhunter@utah.gov

India Nielsen Barfuss	385- 268- 2570	indianielsen@utah.gov
JC Bailey	801- 538- 7361	jcbailey@utah.gov

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

## General Information

### 2. Rule or section catchline:

R650-202. Boating Advisory Council

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

Section 73-18-3.5 provides that the Division of Outdoor Recreation (Division) may appoint an advisory council per the State Boating Act.

This rule pertains to the Division's appointment of the council.

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

This rule pertains to the Division's appointment of the advisory council representing boating interests to advise on state boating policies.

This rule previously existed under Title R651.

## Fiscal Information

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

#### A) State budget:

There are no anticipated costs or savings to the state budget, this rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

#### B) Local governments:

There are no anticipated costs or savings for the small businesses associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

There are no anticipated costs or savings for the small businesses associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

The proposed rule does not have a fiscal impact on non-small businesses, nor will a service be required of them to implement this rule.

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

There are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

#### 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 anticipated compliance costs for affected persons.

This rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

#### Regulatory Impact Table

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

## NOTICES OF PROPOSED RULES

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

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

The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.

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

Section 73-18-3.5

**Public Notice Information**

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jason Curry, Director	<b>Date:</b>	10/13/2023
---	--------------------------	--------------	------------

**R650. Natural Resources, Outdoor Recreation.****R650-202. Boating Advisory Council.****R650-202-1. Boating Advisory Council.**

(1) The division, after notifying the commission, shall appoint a nine-member advisory council to make recommendations to the division on state boating policies.

(2) The council shall consist of one member from each of the following boating interests: boating safety and education organizations, sailing users, boating anglers, marine dealers, personal watercraft users, outfitting companies, paddle craft users, water sports users, and motorboat users.

**KEY: boating**

**Date of Last Change: 2024**

**Authorizing, and Implemented or Interpreted Law: 73-18-3.5**

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** New

<b>Rule or Section Number:</b>	<b>R650-203</b>	<b>Filing ID:</b> <b>56081</b>
--------------------------------	-----------------	-----------------------------------

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Outdoor Recreation	
<b>Room number:</b>	100	
<b>Building:</b>	Department of Natural Resources Building	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ty Hunter	801-440-5106	tyhunter@utah.gov
India Nielsen Barfuss	385-268-2570	indianielsen@utah.gov
JC Bailey	801-538-7361	jcbailey@utah.gov

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

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

R650-203. Waterway Marking System

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

The Division of Outdoor Recreation, the agency mandated by Title 73, Chapter 18, to oversee the State Boating Act, clarifies the definitions of waterway markers and their purpose in this rule.

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

Waterway marker definitions and their purpose is clarified in this rule.

This rule previously existed under Title R651.

**Fiscal Information**

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

**A) State budget:**

There are no anticipated costs or savings to the state budget, this rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

**B) Local governments:**

There are no anticipated costs or savings for local governments associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

There are no anticipated costs or savings for small businesses associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

The proposed rule does not have a fiscal impact on non-small businesses, nor will a service be required of them to implement the 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 are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

**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 anticipated compliance costs for affected persons.

This rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

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

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

The Executive Director of the Department of 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:**

Subsection 73-18-4(1)		
--------------------------	--	--

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

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------



<b>9. This rule change MAY become effective on:</b>	01/10/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jason Curry, Director	<b>Date:</b>	10/13/2023
---	--------------------------	--------------	------------

**R650. Natural Resources, Outdoor Recreation.****R650-203. Waterway Marking System.****R650-203-1. Obeying Waterway Markers.**

The operator of a vessel shall obey the markings or instructions of any official waterway marker.

**R650-203-2. Waterway Markers.**

(1) On a river or other natural or improved waterway, a buoy or other waterway marker that depicts:

(a) an orange cross within an orange diamond means "Boats Keep Out;"

(b) an orange circle means "Controlled Area;"

(c) an orange diamond without a cross means "Danger;" and

(d) an orange square or rectangle means "Provides Information."

(2) A regulatory symbol depicted on a waterway marker described in Subsection (1) shall be:

(a) colored international orange on a white background; and

(b) any descriptive wording within or accompanying the regulatory symbols shall be in black lettering.

(3) If a regulatory symbol is depicted on a buoy, an orange band shall encircle the buoy near the water line and near the top of the buoy.

**R650-203-3. Channel Markers.**

On a river or other natural or improved waterway channel:  
(1) a white buoy with red vertical stripes marks the center of a channel and may be lettered alphabetically from downstream to upstream;

(2) a green can buoy, marked with odd numbers, marks the left side of the channel when proceeding upstream; and

(3) a red nun buoy, marked with even numbers, marks the right side of a channel when proceeding upstream.

**R650-203-4. Mooring Buoy.**

A mooring buoy is white and displays a blue band at least three inches wide, encircling the buoy halfway between the waterline and the top of the buoy.

**R650-203-5. Diver's Flag.**

(1)(a) A person shall use a square red flag, with a white diagonal stripe from one top corner to the opposite bottom corner, to indicate the presence of a diver below.

(b) A rigid replica of the International Code "A" flag that is not less than one meter in height meets the requirements of Subsection (1)(a).

(2) The operator of any vessel may not approach within 150 feet of a posted diver's flag unless the vessel is part of the equipment in use by the diver.

**KEY: boating****Date of Last Change: 2024****Authorizing, and Implemented or Interpreted Law: 73-18-4(1)****NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** Amendment

<b>Rule or Section Number:</b>	<b>R650-204</b>	<b>Filing ID:</b> <b>56082</b>
--------------------------------	-----------------	-----------------------------------

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Outdoor Recreation	
<b>Room number:</b>	100	
<b>Building:</b>	Department of Natural Resources Building	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ty Hunter	801-440-5106	tyhunter@utah.gov
India Nielsen Barfuss	385-268-2570	indianielsen@utah.gov
JC Bailey	801-538-7361	jcbailey@utah.gov

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

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

R650-204. Regulating Waterway Markers

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

The Division of Outdoor Recreation, the agency mandated by Title 73, Chapter 18, to oversee the State Boating Act, clarifies the regulation of waterway markers in this rule.

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

This rule clarifies the definitions, placement, hazards, and destruction concerning waterway markers placed on Utah bodies of water.

This rule previously existed under Title R651.



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

There are no anticipated costs or savings to the state budget, this rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

**B) Local governments:**

There are no anticipated costs or savings for local governments associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

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

There are no anticipated costs or savings for small businesses associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

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

The proposed rule does not have a fiscal impact on non-small businesses, nor will a service be required of them to implement this rule.

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

There are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

**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 anticipated compliance costs for affected persons.

This rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

**G) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there

are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

**Regulatory Impact Table**

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

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

The Executive Director of the Department of 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:**

Subsection 73-18-4(1)(b)		
-----------------------------	--	--

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

# NOTICES OF PROPOSED RULES

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	01/10/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

## Agency Authorization Information

<b>Agency head or designee and title:</b>	Jason Curry, Director	<b>Date:</b>	10/13/2023
---	--------------------------	--------------	------------

## R650. Natural Resources, Outdoor Recreation.

### R650-204. Regulating Waterway Markers.

#### R650-204-1. Placement of Waterway Markers.

A person may not place on or near the waters of this state any waterway marker, except a diver's flag, without written authorization by the division or a federal agency operating within its federal authority.

#### R650-204-2. Definitions.

(1) "Hazard to navigation" means any object permanently placed on or under the waters of this state in such a way that it presents an obstacle to navigation, including:

- (a) a pier or shoreline dock that is longer than 75 feet in length;
- (b) a floating dock;
- (c) inflatable recreational equipment;
- (d) a commercial fishing device;
- (e) a scientific device;
- (f) a navigational aid;
- (g) a slalom course, jump or rail, or another recreational device; or
- (h) a vessel moored outside of a designated mooring area.

(2) "Permanent" means intended to be left on a waterway overnight or intended to be left on a waterway unattended during the day.

#### R650-204-3. Hazards to Navigation.

(1) A person may not place any permanent or anchored object on the waters of this state without written authorization by the division or a federal agency operating within its authority.

(2) Before placing a permitted water obstacle on a waterway, a person shall mark the permitted water obstacle with the owner's name in letters that:

- (a) consist of a contrasting color to the obstacle; and
- (b) are at least one inch in height with the letter width proportionate to the height.

(3) If a person intends to leave a permitted water obstacle on a waterway overnight, the person shall, before placing it on a waterway, mark the obstacle with lights that:

- (a) meet United States Coast Guard requirements;
- (b) float at least 39 inches above the water;
- (c) are of an amber or white color;

- (d) emit a minimum of 30 flashes per minute; and
- (e) are visible for up to one-half mile.
- (4) If a permitted water obstacle is a buoy, the buoy must be self-righting and have a three-inch silver radar reflective band around its top.
- (5) A person may not place a water obstacle on the waters of this state without a permit.
- (6)(a) A person who places a water obstacle on a waterway pursuant to a permit shall abide by the permit's requirements.
- (b) A person who places a water obstacle on a waterway pursuant to a permit but fails to abide by the permit's requirements shall, upon notification by the division, immediately remove the obstacle from the waterway.
- (7) A person who places a hazardous or unpermitted water obstacle on a waterway shall, upon notification by the division, immediately remove the obstacle from the waterway.
- (8) The division may, at an obstacle owner's expense, remove a water obstacle from a waterway if the obstacle creates a hazard.
- (9) The division may not be responsible for any damage incurred during removal of:
  - (a) a hazardous water obstacle;
  - (b) an unpermitted water obstacle; or
  - (c) an obstacle placed in violation of the requirements set out in any applicable permit.
- (10) A person who places a brine shrimp egg capture boom on the waters of this state shall adhere to the requirements of this Section and Sections R657-52-15 through R657-52-17.

#### R650-204-4. Destruction of Waterway Markers.

A person may not remove, destroy, or damage any waterway marker authorized to be placed by a federal agency or by the division, nor shall any person moor any vessel to a waterway marker, except mooring buoys.

#### **KEY: boating**

**Date of Last Change: 2024**

**Authorizing, and Implemented or Interpreted Law: 73-18-4(1)(b)**

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	R650-205	Filing ID: 56083

## Agency Information

<b>1. Department:</b>	Natural Resources
<b>Agency:</b>	Outdoor Recreation
<b>Room number:</b>	100
<b>Building:</b>	Department of Natural Resources Building
<b>Street address:</b>	1594 W North Temple
<b>City, state and zip:</b>	Salt Lake City, UT 84116

<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ty Hunter	801-440-5106	tyhunter@utah.gov
India Nielsen Barfuss	385-268-2570	indianielsen@utah.gov
JC Bailey	801-538-7361	jcbailey@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R650-205. Zoned Waters
<b>3. Purpose of the new rule or reason for the change:</b>
The Division of Outdoor Recreation, the agency mandated by Title 73, Chapter 18, to oversee the State Boating Act, clarifies the requirements or restrictions for zoned bodies of water in Utah.
<b>4. Summary of the new rule or change:</b>
The purpose of this filing is to define the requirements or restrictions for zoned bodies of water in Utah to comply with Administrative Rules Guidelines.
This rule is still in accordance with State Park Rule R651-205, this new rule is to create a rule for the new Division of Outdoor Recreation.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There are no anticipated costs or savings to the state budget, this rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.
<b>B) Local governments:</b>
There are no anticipated costs or savings for local governments associated with this rule.
The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):

There are no anticipated costs or savings for small businesses associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

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

The proposed rule does not have a fiscal impact on non-small businesses, nor will a service be required of them to implement the 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 are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

**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 anticipated compliance costs for affected persons.

This rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

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

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

## NOTICES OF PROPOSED RULES

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

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

The Executive Director of the Department of 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:**

Subsection 73-18-4(1)(c)		
--------------------------	--	--

#### Public Notice Information

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

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	01/10/2024
---	------------

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

#### Agency Authorization Information

<b>Agency head or designee and title:</b>	Jason Curry, Director	<b>Date:</b>	10/13/2023
---	-----------------------	--------------	------------

#### R650. Natural Resources, Outdoor Recreation.

##### R650-205. Zoned Waters.

##### R650-205-1. Obeying Zoned Waters.

A vessel operator shall obey the zoned water requirements or restrictions implemented by this rule.

##### R650-205-2. Deer Creek Reservoir.

(1) A person may not operate a vessel or undertake any water activity within 1,500 feet of the dam on Deer Creek Reservoir.

(2) A person may not operate a vessel at a speed greater than wakeless speed in Wallsberg Bay on Deer Creek Reservoir.

##### R650-205-3. Green River.

A person may not use a motor on the Green River between the Flaming Gorge Dam and the confluence with Red Creek.

##### R650-205-4. Stansbury Park Lake.

(1) A person may not operate a vessel over 20 feet in length on Stansbury Park Lake.

(2) Except for an electric trolling motor, a person may not use a motor on Stansbury Park Lake.

##### R650-205-5. Lower Provo River.

(1) A person may not operate a vessel on the Lower Provo River at a speed greater than wakeless speed between the place where the river enters Utah Lake and the gas pipeline.

(2) A person may not use a motor on the Lower Provo River upstream of the gas pipeline.

##### R650-205-6. Decker Lake.

A person may not use a motor on Decker Lake.

##### R650-205-7. Palisade Lake.

Except for an electric trolling motor, a person may not use a motor on Palisade Lake.

##### R650-205-8. Ivins Reservoir.

A person may not use a motor with a manufacturer listed horsepower of 10 horsepower or more on Ivins Reservoir.

##### R650-205-9. Jordan River.

(1) Except for motors with a manufacturer listed horsepower of less than 10 horsepower, a person may not use a motor on the Jordan River.

(2) Subject to the restrictions set out in Subsection (1), a person may only use a motor on the Utah County portion of the Jordan River.

##### R650-205-10. Ken's Lake.

Except for an electric trolling motor, a person may not use a motor on Ken's Lake.

##### R650-205-11. Pineview Reservoir.

(1) Except for an electric trolling motor, a person may not use a motor on Pineview Reservoir in the designated area in the North Arm, North Geersten Bay, and on the Middle Fork of the Ogden River.

(2) A person may not operate a vessel in the Middle Inlet or Cemetery Point picnic swim areas on Pineview Reservoir.

##### R650-205-12. Jordanelle Reservoir.

A person may not operate a motorboat or sailboat in the designated area of Hailstone Beach on Jordanelle Reservoir.

##### R650-205-13. Little Dell Reservoir.

A person may not use a motor on Little Dell Reservoir.

**R650-205-14. Bear Lake.**

A person may not use a vessel on Bear Lake from July 1 through Labor Day in the area adjacent to Cisco Beach, starting at the entrance station and extending 1/4 mile south, when the area is marked with buoys.

**R650-205-15. Lost Creek Reservoir in Morgan County.**

A person may not operate a vessel at a speed greater than wakeless speed on Lost Creek Reservoir in Morgan County.

**R650-205-16. Huntington Reservoir.**

A person may not use a motor with a manufacturer listed horsepower of 10 horsepower or more on Huntington Reservoir.

**R650-205-17. Cutler Reservoir.**

(1) A person may not use a motor with a manufacturer listed horsepower of more than 35 horsepower on Cutler Reservoir.

(2) A person may not operate a vessel at a speed greater than wakeless speed in the area south of the Benson Railroad Bridge on Cutler Reservoir.

(3) A person may not operate a vessel at a speed greater than wakeless speed from the last Saturday in September through March 31st in the Bear River east of the confluence with Cutler Reservoir.

**R650-205-18. Newton Reservoir.**

A person may not operate a vessel on Newton Reservoir at a speed greater than wakeless speed when the reservoir's elevation is at or below 4,761 feet above sea level.

**KEY: boating, outdoor recreation**

**Date of Last Change: 2024**

**Authorizing, and Implemented or Interpreted Law: 73-18-4(1)(c)**

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** New

<b>Rule or Section Number:</b>	<b>R650-206</b>	<b>Filing ID:</b> <b>56084</b>
--------------------------------	-----------------	-----------------------------------

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Outdoor Recreation	
<b>Room number:</b>	100	
<b>Building:</b>	Department of Natural Resources Building	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ty Hunter	801-440-5106	tyhunter@utah.gov

India Nielsen Barfuss	385-268-2570	indianielsen@utah.gov
JC Bailey	801-538-7361	jcbaily@utah.gov

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

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

R650-206. Carrying Passengers for Hire

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

The Division of Outdoor Recreation, the agency mandated by Title 73, Chapter 18, to oversee the State Boating Act, clarifies the requirements and restrictions for carrying passengers for hire.

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

This rule clarifies the requirements and restrictions for carrying passengers for hire.

This rule previously existed under Title R651.

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

There are no anticipated costs or savings to the state budget, this rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

**B) Local governments:**

There are no anticipated costs or savings for local governments associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

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

There are no anticipated costs or savings for small businesses associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.



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

The proposed rule does not have a fiscal impact on non-small businesses, nor will a service be required of them to implement this rule.

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

There are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

**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 anticipated compliance costs for affected persons.

This rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

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

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

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

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

The Executive Director of the Department of 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:**

Subsection		
73-18-7(18)(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:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jason Curry, Director	<b>Date:</b>	10/13/2023
---	-----------------------	--------------	------------

**R650. Natural Resources, Outdoor Recreation.****R650-206. Carrying Passengers for Hire.****R650-206-1. Definitions.**

As used in this rule:

(1) "Advanced first aid training" means a course that meets the current National Registry of Emergency Medical Technicians, Emergency Medical Responder Education Standards.

(2) "Agent" means a person an outfitting company has designated to act on its behalf.

(3) "Basic first aid training" means a course in first aid that includes hands-on training and skills evaluation, including courses



offered by the American Red Cross, the American Heart Association, the National Safety Council, or local hospitals.

(4) "Boating Advisory Council" means the council created pursuant to Section R650-202-1.

(5) "Boating Program Coordinator" means the division employee who oversees the state's boating program, and who administers the United States Coast Guard's Recreational Boating Safety Grant and Carrying Passengers for Hire Program.

(6) "Cardiopulmonary resuscitation" or "CPR" means a hands-on course that includes training and evaluation that meets the standards of the American Heart Association Emergency Cardiovascular Care (ECC) course.

(7) "Certificate of compliance" means a document created by the division, and signed by a compliance inspector, and an agent of an outfitting company, which certifies the outfitting company has met all the requirements of a site inspection, and the Maintenance and Inspection Program for Carrying Passengers for Hire.

(8) "Certifying experience" means vessel operation or river running experience:

(a) that a trip leader or guide obtained within ten years of the trip leader's or guide's date of authorization by an outfitting company; and

(b) that an outfitting company has verified and documented.

(9) "Compliance inspector" means a person who the division has trained and authorized to perform dock side, dry dock, and site visits for outfitting companies.

(10) "Consideration" means something of value given or done in exchange for something given or done by another.

(11) "Dockside inspection" means an annual examination of a vessel when the vessel is afloat in the water, such that the exterior of the vessel above the waterline and the interior of the vessel may be examined.

(12) "Dry dock inspection" means an examination of a vessel, conducted once every five years, when the vessel is out of the water and supported so all the exterior and interior of the vessel may be examined.

(13) "Flatwater river area" means all river sections defined in Section R650-215-10.

(14) "Good marine practices and standards" means those methods and ways of maintaining, operating, equipping, repairing, and restructuring a vessel according to commonly accepted standards, including 46 CFR, the American Boat and Yacht Council, the American Bureau of Shipping, the National Marine Manufacturers Association, and other appropriate, generally accepted standards.

(15) "Guide" means an individual an outfitting company authorizes to carry passengers for hire.

(16) "License" means an annual certificate the division issues to an outfitting company that authorizes the company to carry passengers for hire.

(17) "Low-capacity vessel" means a manually propelled vessel designed or intended to carry no more than two occupants.

(18) "Outfitting company" means any person who, for consideration:

(a) provides equipment to transport persons on all waters of this state; and

(b) supervises a person who:

(i) operates a vessel to transport passengers; or

(ii) leads a person on a vessel.

(c) "Outfitting company" does not mean owners and employees of a migratory bird production area, created under Title

23A, Chapter 13, Migratory Bird Production Area, who are operating solely within that production area.

(19) "Person" means:

(a) an individual;

(b) an association;

(c) an institution;

(d) a corporation;

(e) a company;

(f) a trust;

(g) a limited liability company;

(h) a partnership;

(i) a political subdivision;

(j) a government office, department, division, bureau, or other body of government; or

(k) any other organization or entity.

(20) "Program safety committee" means the committee formed pursuant to Subsection R650-206-8(2).

(21)(a) "River trip vessel" means a vessel, or the components and equipment used to configure such a vessel, that is designed to be operated on a whitewater river or section of river.

(b) A river trip vessel may be a raft with inflatable chambers, or a configuration of metal and wood frames, straps, or chains, and inflatable pontoon tubes that are integral in maintaining the flotation, structural integrity, and general seaworthiness of the vessel.

(22) "Racing shell" means a long, narrow watercraft specifically designed for racing or exercise, that is outfitted with long oars and sliding seats.

(23) "Site visit" means a meeting with an outfitting company to inspect vessels, vessel components, and trip leader and guide certifying experience documents.

(24) "Sole state waters" means all waters of the state, except for the waters of Bear Lake, Flaming Gorge, and Lake Powell.

(25) "Towing for hire" means the activity of towing vessels or providing on-the-water assistance to vessels, for consideration.

(26) "Trip leader" is a guide an outfitting company assigns to oversee carrying passengers for hire trip.

(27)(a) "Trip Log" means a document maintained by an outfitting company that lists a passenger for hire trip's leaders and guides on-the-water experiences.

(b) An outfitting company may use a trip manifest as a trip log.

(28)(a) "Trip manifest" means a document maintained by an outfitting company that:

(i) authorizes a carrying passenger for hire trip;

(ii) specifies the trip leader and guide;

(iii) specifies the passengers on the trip; and

(iv) specifies the dates of the trip.

(b) A trip manifest satisfies the documentation requirement set out in Subsection (8)(b) of this rule.

(29) "Whitewater river" means all rivers the division recognizes as whitewater rivers and all rivers not designated as a flatwater river area.

### **R650-206-2. Outfitting Company Responsibilities.**

(1)(a) Except where exempted by Section R650-206-9, each outfitting company carrying passengers for hire on the waters of this state shall, before commencing operations, make an annual application for a license with the division.

(b) An outfitting company shall include in its license application:

## NOTICES OF PROPOSED RULES

(i) a completed application on a form provided by the division;

(ii) evidence of a current and valid business license;

(iii) a list of the outfitting company agents;

(iv) evidence of general liability insurance coverage; and

(v) payment of the license application fee.

(c) An outfitting company's license shall expire annually on December 31.

(2)(a) The division shall issue a license in the outfitting company's name if the division determines an outfitting company's application meets the requirement of Subsection (1).

(b) An outfitting company shall display its license in a prominent location at its place of business such that the license is clearly visible to persons and passengers who enter the place of business.

(c) An outfitting company using a Doing Business As (DBA) shall list the DBA on the outfitting company's license application.

(d) An outfitting company that forms a new DBA after the division issues a license shall notify the division, in writing, of the new DBA within ten days of the formation of the new DBA.

(e) An outfitting company license is not transferable.

(f) The division shall issue an outfitting company license electronically within a reasonable time not to exceed 10 days after the division receives an application that meets the requirements of Subsection (1).

(g) The division shall send a license to the email address provided by the outfitting company in its application.

(3) An outfitting company's agent shall certify that the elements of a certificate of compliance have been fulfilled.

(4) An outfitting company's agent shall certify each trip leader or guide authorized by the outfitting company has:

(a) obtained the minimum level of required vessel operation experience; and

(b) obtained the appropriate first aid and CPR certificates.

(5)(a) An outfitting company's agent shall certify that a trip manifest is created for each trip and that the trip leader retains a copy of the manifest such that it is available during the trip.

(b) The outfitting company shall keep a copy of the trip manifest on file for six years after the conclusion of the trip for which it was generated.

(6) An outfitting company shall have a written policy describing a program for a drug free workplace.

(7) An outfitting company shall maintain a trip log for each of its trip leaders and guides.

(8) For each trip conducted by the company, an outfitting company shall maintain a trip manifest that contains:

(a) the name, address, and phone number of the outfitting company;

(b) the name and date of birth of each trip leader and guide assigned to the trip;

(c) the trip departure and arrival locations with departure and arrival dates and times; and

(d) a list of all trip passengers.

(9) An outfitting company shall maintain a daily log or a trip operation log for each of its vessels.

(10) A trip leader assigned by the outfitting company shall accompany every commercial trip.

(11)(a) An outfitting company shall ensure that a trip leader or guide conducts a vessel safety check and a passenger orientation before embarking on a trip.

(b) The vessel safety check under Subsection (a) shall include an inspection of:

(i) a vessel's required carriage of safety equipment;

(ii) a vessel's communication systems;

(iii) the operation and control of the vessel's steering controls and propulsion system; and

(iv) the vessel's navigation lights if the vessel will operate between sunset and sunrise.

(c) The passenger orientation under Subsection (a) shall include:

(i) a passenger count;

(ii) a discussion of safety protocols and emergency operations;

(iii) a discussion of the conditions of weather, river, terrain, equipment, travel, housing, and vessels that passengers may expect to encounter during the trip;

(iv) a discussion of the personal equipment, clothing, and gear that passengers should have for the trip;

(v) an explanation of the proper fit, wearing, and use of personal flotation devices;

(vi) an explanation of passenger riding and positioning in the vessel;

(vii) a discussion of safety procedures for swimming through river rapids and getting back in the vessel;

(viii) instructions on what to do in the event of a vessel accident; and

(ix) a discussion of sanitation, litter prevention, and human refuse disposal.

(12) An outfitting company shall ensure that each vessel in its fleet is equipped with any safety equipment required safety equipment.

(13) An outfitting company shall maintain each vessel in its fleet according to good marine practices and standards.

(14) An outfitting company shall ensure that each vessel used in the service of carrying passengers for hire meets any required maintenance and inspection requirements.

(15) An outfitting company shall maintain a file of its maintenance and inspections of each vessel in its fleet, or for the components and equipment that configure a river trip vessel in its fleet that are required to be inspected.

(16) An outfitting company shall retain maintenance and inspection files so long as the vessel is in the service of carrying passengers for hire and for six years thereafter.

(17) The owner of a vessel that carries passengers for hire shall maintain general liability insurance with policy terms and limits acceptable to the division.

(18) Upon request of an agent of the division, an outfitting company shall provide the division with a copy of the company's:

(a) liability insurance policy;

(b) drug free workplace policy;

(c) trip manifests;

(d) trip authorization permits;

(e) vessel maintenance and inspection files; and

(f) trip leader and guide trip logs.

(19) Any outfitting company vessel that operates on Bear Lake, Flaming Gorge, or Lake Powell, or a river flowing into Utah, is not required to obtain, and display the Utah license required by this section if:

(a) the outfitting company possesses a certificate of outfitting company registration, or similar license, or permit, issued by another state with registration or licensing requirements like Utah's;

(b) the outfitting company registration, or similar license or permit described in Subsection (a) is acceptable to the division; and

(c)(i) the outfitting company's trip embarks and disembarks from the out-of-state portion of the lakes, and when less than 25 % of each trip is conducted on the Utah portion of the lake; or

(ii) the outfitting company's river trips originates on an out-of-state portion of a river flowing into Utah and terminates at the first available launch ramp or take-out in Utah.

(20)(a) For vessels operating on the Colorado River where a river trip originates in Colorado, the first available Utah take-out is the Westwater Ranger Station launch ramp or take-out.

(b) For vessels operating on the Dolores River where a river trip originates in Colorado, the first available Utah take-out is the Dewey Bridge launch ramp/take-out on the Colorado River.

(c) For vessels operating on the Green River where a river trip originates in Wyoming, the first available Utah take-out is the Split Mountain launch ramp or take-out.

(d) For vessels operating on the San Juan River where a trip originates in Colorado or New Mexico, the first available Utah take-out is the Montezuma Creek launch ramp or take-out.

(21) An inspector may perform the annual dockside inspection for river trip vessels at the outfitting company's place of business.

(22) An inspector may perform the five-year dry dock inspection for float trip vessels at the outfitting company's place of business.

### **R650-206-3. Utah Carrying Passengers for Hire Trip Leader and Guide Qualifications.**

(1) Unless exempted in Section R650-206-9, a person may not operate a vessel engaged in carrying passengers for hire solely on the waters of this state unless that person is a trip leader, guide, or U.S. Coast Guard Master's License holder authorized by an outfitting company licensed by the division.

(2) When carrying passengers for hire on a motorized trip on the waters of Bear Lake, Flaming Gorge, or Lake Powell, a trip leader shall have a valid and appropriately endorsed U.S. Coast Guard Master's License.

(3) Every trip leader and guide engaged in carrying passengers for hire shall have in their possession a trip manifest issued by the outfitting company and containing the information set out in Subsection R650-206-2(8).

(4) A person qualified as a trip leader for trips on lakes and reservoirs shall:

(a) for motorized trips, have a valid and appropriately endorsed U.S. Coast Guard Master's License;

(b) be at least 18 years of age;

(c) complete a minimum of 80 hours of vessel operation experience, including 40 hours operating the same or similar vessel the trip leader will use in carrying passengers for hire on the same lake or reservoir upon which the trip leader will carry passengers for hire;

(d) have a current advanced first aid certification; and

(e) have a current CPR certification.

(5) A person qualified to lead as a trip leader shall:

(a) for motorized trips, complete a National Association of State Boating Law Administrators (NASBLA) approved boating safety course; and

(b) for non-motorized trips, complete a skills course from the American Canoe Association (ACA) or from the World Paddling Association (WPA).

(6) A person qualified as a trip leader operating on whitewater rivers shall:

(a) be at least 18 years of age;

(b) complete a minimum of nine river trips on whitewater river sections, including at least one trip during which the trip leader operates the same or similar vessel the trip leader will use in carrying passengers for hire on the same river section on which the trip leader will be carrying passengers for hire;

(c) have a current advanced first aid certification; and

(d) have a current CPR certification.

(7) A person qualified as a trip leader operating on flat water river areas shall:

(a) be at least 18 years of age;

(b) complete a minimum of six river trips on any river section, including at least one trip during which the trip leader operates the same or similar vessel the trip leader will use in carrying passengers for hire on the same river section on which the trip leader will be carrying passengers for hire;

(c) have a current advanced first aid certification; and

(d) have a current CPR certification.

(8) A person qualified as a guide shall:

(a) for motorized trips, complete a National Association of Boating Law Administrators (NASBLA) approved boating safety course; and

(b) for non-motorized trips, complete a skills course from the American Canoe Association (ACA) or from the World Paddling Association (WPA).

(9)(a) A person qualified as a guide operating on lakes and reservoirs shall:

(b) have a valid and appropriately endorsed U.S. Coast Guard Master's License for motorized trips; or

(i) be at least 18 years of age;

(ii) complete a minimum of at least 20 hours of vessel operation experience, including 10 hours operating the same or similar vessel the guide will use in carrying passengers for hire on the same lake or reservoir upon which the guide will be carrying passengers for hire;

(iii) have a current basic first aid certification; and

(iv) have a current CPR certification.

(10) A person qualified as a guide operating on whitewater rivers shall:

(a) be at least 18 years of age;

(b) complete a minimum of three river trips on whitewater rivers or whitewater river sections, including at least one trip during which the guide operates the same or similar vessel the guide will use in carrying passengers for hire on the same river section which the guide will be carrying passengers for hire;

(c) have a current basic first aid certification; and

(d) have a current CPR certification.

(11) A person qualified as a guide operating on flatwater rivers shall:

(a) be at least 18 years of age;

(b) complete a minimum of three river trips on flatwater or whitewater river sections, including at least one trip during which the guide operates the same or similar vessel the guide will use in carrying passengers for hire on the same river section on which the guide will be carrying passengers for hire;

(c) have a current basic first aid certification; and

(d) have a current CPR certification.

(12) An outfitting company shall, for each person certified by the company as a trip leader or guide, maintain a trip log that contains:

- (a) the person's full legal name and date of birth;
- (b) proof that person possesses a current certification in first aid and CPR; and
- (c) a record of the person's on-water or certifying experience.

(13) An outfitting company shall maintain all trip leader and guide trip logs while the trip leader or guide is employed by the outfitting company and for a period of at least six years after the trip leader's or guide's termination from the company.

(a) An outfitting company shall maintain all trip logs at the company's designated place of business.

(b) The outfitting company, or any employee having access to trips logs maintained by an outfitting company shall produce the trip logs at the request of any peace officer engaged in the enforcement of Rule R650-602.

(14) Subject to the exceptions set out in Subsections (15) and (16) of this rule, a trip leader or guide may not carry passengers for hire when the trip leader or guide is unfamiliar with:

- (a) the vessel used in carrying passengers for hire; or
- (b) the waterway on which the trip leader or guide is carrying passengers for hire.

(15) A trip leader or guide may carry passengers for hire if the trip leader or guide is unfamiliar with the vessel used in carrying passengers for hire, or the trip leader or guide is unfamiliar with the waterway on which the trip leader or guide is carrying passengers for hire, if there is another trip leader or guide on board who is familiar with the vessel and waterway.

(16) When a trip leader or guide is unfamiliar with the vessel used in carrying passengers for hire, or is carrying passengers for hire on an unfamiliar lake, reservoir, or a flatwater river area, the trip leader or guide may carry passengers for hire if:

- (a) there is a trip leader or guide who is familiar with the vessel and the lake, reservoir, or flatwater river area; and
- (b) that trip leader or guide is on another vessel that remains within sight of the guide that is unfamiliar with the vessel or lake, reservoir, or flatwater river area.

(17) An outfitting company shall ensure there is at least one trip leader and one guide:

- (a) on a vessel carrying more than 49 passengers for hire;
- (b) on a vessel carrying more than 24 passengers for hire when the vessel is operating more than one mile from shore; and
- (c) for each passenger deck on a vessel.

(18) When a trip leader or guide is leading a low-capacity vessel as part of a group of vessels, an outfitting company shall ensure:

- (a) there is at least one trip leader or guide for every group of eight low-capacity vessels when those vessels are operated on lakes or reservoirs;
- (b) there is at least one trip leader or guide for every four low-capacity vessels when those vessels are operated on whitewater river sections; and
- (c) there is at least one trip leader or guide for every six low-capacity vessels or racing shells when those vessels or racing shells are operated on flatwater river areas.

(19) A trip leader or guide may not operate a vessel for more than 12 hours in a 24-hour period.

#### **R650-206-4. Additional Personal Floatation Device (PFD) Requirements for Vessels Carrying Passengers for Hire.**

(1)(a) An outfitting company shall ensure that a vessel carrying passengers for hire has enough wearable PFDs on board that meet or exceed the number of persons on board the vessel.

(b) An outfitting company shall ensure a wearable PFD is approved for the activity in which it is to be used.

(2) In situations where infants, children, or youth are in enclosed cabin areas of vessels over 19 feet in length and not wearing PFDs, an outfitting company shall ensure that a minimum of 10 % of the wearable PFDs on board the vessel shall be of an appropriate type and size for infants, children, or youth passengers.

(3) An outfitting company shall ensure any wearable PFD used on vessels carrying passengers for hire is labeled for commercial use.

(4) If a passenger on board a vessel carrying passengers for hire is not wearing a PFD, an outfitting company shall ensure a PFD is stored in readily accessible containers that legibly and visually show their contents.

(5) An outfitting company shall mark each PFD carried on board a vessel carrying passengers for hire with the name of the outfitting company in one-inch-high letters that contrast with the color of the PFD.

(6) Vessels carrying passengers for hire that are 26 feet or more in length shall carry a ring life buoy throwable PFD.

(a) Vessels carrying passengers for hire that are 40 feet or more in length shall carry a minimum of two ring life buoy throwable PFDs.

(b) Ring life buoy throwable PFDs shall have a minimum of 60 feet of line attached.

(7) An outfitting company shall ensure all passengers and crew members wear a PFD when a vessel is being operated in hazardous conditions.

(8) A trip leader or guide shall ensure passengers on the trip leader's or guide's vessel comply with Rule R650-215-6.

#### **R650-206-5. Additional Fire Extinguisher Requirements for Vessels Carrying Passengers for Hire.**

(1)(a) An outfitting company shall ensure each motorboat in its fleet carries a minimum of one type B-1 fire extinguisher.

(b) A motorboat equipped solely with an electric motor, and not carrying flammable fuels on board, is exempt from the requirements of Subsection (a).

(2) An outfitting company shall ensure that each motorboat in its fleet that is equipped with an inboard, outboard, or direct drive gasoline engine and that can carry more than six passengers has at least one fixed U.S. Coast Guard-approved fire extinguishing system mounted in the engine compartment.

(3)(a) A portable fire extinguisher shall be mounted in a readily accessible location, near the helm, and away from the engine compartment.

(b) A portable fire extinguisher may be stowed in a readily accessible location near the operator's position when the vessel is operating on a river.

(4) An outfitting company shall install a smoke detector:

- (a) in each enclosed passenger area of a vessel capable of carrying more than 12 passengers for hire; or
- (b) a vessel that provides on-board overnight passenger accommodation.

**R650-206-6. Additional Equipment Requirements for Vessels Carrying Passengers for Hire.**

- (1) An outfitting company shall:
- (a) ensure each vessel in its fleet has on board appropriate communication equipment for contacting emergency services; or
- (b) have a policy and emergency communications protocol that describe the quickest and most efficient means of contacting emergency services, taking into consideration the remoteness of the area in which the vessel will be operated.
- (2) For vessels traveling in a group, the requirements of Subsection 1(a) of this rule may be met by carrying one communication device for the group.
- (3) An outfitting company shall install carbon monoxide detectors in each enclosed passenger area on each vessel in its fleet.
- (4) Vessels carrying more than six passengers for hire and operating at a distance greater than one mile from shore shall provide:
- (a) an appropriate number of life rafts or other lifesaving apparatuses; and
- (b) a minimum of three visual distress signals that are approved for day and night use.
- (5)(a) An outfitting company shall ensure each vessel in its fleet carries a map or chart of the water body on which it is operating and a compass or GPS unit that is in good and serviceable condition.
- (b) For vessels traveling in a group, the requirements of Subsection (5)(a) may be met by carrying a map or chart and a compass or GPS unit for the group.
- (c) A river trip vessel shall carry a map of the water body or river or river sections on which the vessel is operating but is not required to carry a compass or GPS unit.
- (6)(a) An outfitting company shall ensure each vessel in its fleet is equipped with at least one suitable anchor and anchorage system appropriate for the body of water on which the vessel will be operating.
- (b) Any line, when attached to an anchor, shall be attached by an eye splice, thimble, and shackle.
- (c) A low-capacity vessel or racing shell operating on lakes or reservoirs is exempt from the requirements of Subsections (6)(a) and (6)(b).
- (d) A vessel operating on a river is not required to carry an anchor but shall have sufficient lines to secure the vessel to shore.
- (e) Lines and straps used for anchorage, mooring, and maintaining vessel structural integrity shall be in good and serviceable condition.
- (7) An outfitting company shall ensure that each vessel in its fleet carries on board at least one portable, battery-operated light per trip leader or guide that is in good and serviceable condition and is readily accessible.
- (8)(a) An outfitting company shall ensure that each vessel in its fleet has on board an adequate first aid kit, stocked with supplies respective to the number of passengers carried on board and the nature of boating activity in which the vessel is engaged.
- (b) For vessels traveling in a group, the requirement of Subsection (8)(a) may be met by carrying one first aid kit for the group.
- (9)(a) An outfitting company shall prominently display its name on the hull or superstructure of each vessel in its fleet.
- (b) The display of an outfitting company's name may not interfere with any required numbering, registration, or documentation display.
- (c) If a government agency with regulatory authority over a vessel prohibits the display of an outfitting company's name on the exterior of the vessel, the outfitting company shall display its name

in a visible manner that does not violate the government agency's requirements.

- (10) An outfitting company shall ensure that each vessel in its fleet carrying more than six passengers for hire is:
- (a) equipped with a minimum of one marine toilet; and
- (b) equipped with one washbasin sanitary facility, except for vessels where suitable privacy enclosures are not practical.
- (11)(a) The toilet and washbasin required by Subsection (10) shall be connected to a permanently installed holding tank that allows for dockside pump out at approved sanitary disposal facilities.
- (b) Vessels that do not have access to dockside pump out facilities may carry a portable marine toilet and washbasin to meet the requirement of Subsection (11)(a).
- (c) For vessels traveling in a group, the requirements of Subsection (10) may be met by carrying one marine sanitation device for the group.
- (d) Marine toilets and washbasins required by this rule shall be maintained in a good and serviceable, sanitary condition.
- (e) An outfitting company shall ensure that each vessel in its fleet that carries more than 49 passengers has on board at least two marine toilets and washbasins, one each for men and women.
- (f) A vessel operating on a trip or excursion with a duration of one hour or less, or that is operating on a river, is not required to be equipped with a marine toilet or washbasin.

**R650-206-7. Towing Vessels for Hire Requirements.**

- (1) Any person or entity that provides the service of towing vessels for hire on waters of this state shall apply for an outfitting company license with the Division.
- (2) A person or entity engaged in towing vessels for hire shall comply with the dockside and dry dock vessel maintenance and inspection requirements imposed on outfitting companies by this rule.
- (3) Any conditions of a contract, special use permit, or other agreement imposed on a person or entity that is towing vessels for hire shall not supersede the boating safety and assistance activities of a state park ranger, other law enforcement officer, emergency and search and rescue personnel, member of the U.S. Coast Guard Auxiliary, or any other person providing "Good Samaritan" service to vessels needing or requesting assistance.
- (4) Unless requested by the operator of the vessel receiving assistance, a state park ranger, other law enforcement officer, emergency and search and rescue personnel, member of the U.S. Coast Guard Auxiliary, or any person providing "Good Samaritan" service is not required to turn the service over to a person or entity authorized by the division to tow vessels for hire.
- (5) A trip leader or guide towing vessels for hire shall, if they assist another vessel, immediately notify a law enforcement officer if the trip leader or guide reasonably believes:
- (a) the vessel being assisted was involved in a reportable boating accident; or
- (b) the operator or occupants of the vessel being assisted pose a threat to themselves or others.
- (6) A trip leader or guide towing vessels for hire may not perform an emergency rescue unless the trip leader or guide reasonably believes:
- (a) immediate emergency assistance is required to save the lives of persons, prevent additional injuries to persons on board a vessel, or reduce damage to a vessel; and
- (b) a state park ranger, other law enforcement officer, emergency and search and rescue personnel, or a member of the U.S. Coast Guard Auxiliary is not immediately available, or a state park

## NOTICES OF PROPOSED RULES

ranger, other law enforcement officer, or emergency and search and rescue personnel make such a request for emergency assistance.

(7) The owner of a vessel engaged in towing vessels for hire shall carry a general liability insurance policy in a form and amount acceptable to the division.

(8) A person engaged in towing vessels for hire shall ensure any vessel engaged in towing vessels for hire:

(a) is a minimum of 21 feet in length;

(b) has a minimum total of a 150 hp gasoline engine or engines, or a 90 hp diesel engine or engines; and

(c) is as large as or larger than the average vessel it will tow.

(9) An outfitting company shall ensure its trip leaders or guides complete a division-approved training course on basic boat operations before engaging in towing vessels for hire.

(10) Each trip leader or guide shall conduct a minimum of five training evolutions of towing a vessel each year, with at least one evolution being a side tow.

(11)(a) A trip leader or guide, and any passengers on board a vessel engaged in towing vessels for hire, shall wear a PFD at all times.

(b) The trip leader or guide shall ensure all occupants of a vessel being towed wear a properly fitted PFD during the tow.

(12)(a) An outfitting company engaged in towing vessels for hire shall keep a log of each tow or vessel assist that includes:

(i) the assisted vessel's assigned bow number;

(ii) the name, address, and phone number of the assisted vessel's owner or operator;

(iii) the number of persons on board the assisted vessel;

(iv) the nature of the assistance provided;

(v) the date and time assistance provided; and

(vi) the location of the assisted vessel at the time it required assistance.

(b) The trip leader or guide of a vessel towing for hire shall make appropriate radio or other communications of the information required by Subsections (12)(a)(i) through (vi) with a person on land, preferably to a person who is at the outfitting company's place of business.

(13) Upon request of an agent of the division, an outfitting company shall provide the division with a copy of a towing vessel's log.

(14) A person or entity engaged in towing vessels for hire shall ensure that a vessel towing for hire:

(a) carries PFDs approved for the activity in which the towed vessel is engaged in a quantity sufficient for all persons on board a towed vessel;

(b) carries a minimum of two throwable PFDs, one of which shall be a ring life buoy;

(c) is equipped with a depth finder;

(d) is equipped with a tow line that is a minimum of 100 feet of 5/8 inch line with a tow bridle;

(e) is equipped with a towing post or reinforced cleats;

(f) carries a dewatering pump with a minimum capacity of 25 gallons per minute and that may be used to dewater other vessels;

(g) if towing for hire between sunset and sunrise, carries a white spotlight with a minimum brightness of 500,000 candle power; and

(h) carries a loudhailer, speaker, or other means of communicating with another vessel from a distance.

(15) A person or entity engaged in towing vessels for hire shall ensure any vessel towing for hire between sunset and sunrise is equipped with electronic radar equipment.

(16) A person or entity engaged in towing vessels for hire shall ensure any vessel engaged in towing for hire carries the following equipment in addition to the equipment required for vessels carrying passengers for hire:

(a) a knife capable of cutting the vessel's towline;

(b) a boat hook;

(c) a minimum of four, six-inch fenders;

(d) binoculars;

(e) a jump-starting system;

(f) a tool kit and spare items for repairs on the assisting vessel; and

(g) damage control items for quick repairs to another vessel.

### **R650-206-8. Maintenance and Inspections Program of Vessels Carrying Passengers for Hire.**

(1) An outfitting company shall comply with all the necessary sections of the division's Maintenance and Inspection Program for Carrying Passengers for Hire and shall carry a current copy of the Maintenance and Inspection Program for Carrying Passengers for Hire.

(2) The division shall request that the Boating Advisory Council establish the Program Safety Committee.

(3) The Program Safety Committee created pursuant to Subsection (2) shall:

(a) consist of five members, two of which shall represent the Utah industry for non-float trip vessels, two of which shall represent the Utah industry for float trip vessels, and one of which shall represent a state or federal agency responsible for managing or regulating the activity of carrying passengers for hire in Utah; and

(b) convene when the Boating Advisory Council hears a proposal that requests substantive changes to the Maintenance and Inspection Program for Vessels Carrying Passengers for Hire program, or when the division's Boating Program Coordinator requests an evaluation of that program.

(3) The division's Boating Program Coordinator shall have authority to assign or delegate responsibilities among the Program Safety Committee's members.

### **R650-206-9. Exemptions to Rule R650-206.**

(1) The director or the director's designee may, at the director's or the director's designee's sole discretion and upon submission of a written application by the organization or volunteer, exempt a charitable organization or volunteer from an outfitting company's licensing requirements.

### **KEY: boating**

**Date of Last Change: 2024**

**Authorizing, and Implemented or Interpreted Law: 73-18-7(18)(d).**

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

**TYPE OF FILING:** New

**Rule or Section Number:**

**R650-208**

**Filing ID:**  
**56085**

#### **Agency Information**

**1. Department:** Natural Resources

**Agency:** Outdoor Recreation



<b>Room number:</b>	100	
<b>Building:</b>	Department of Natural Resources Building	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ty Hunter	801-440-5106	tyhunter@utah.gov
India Nielsen Barfuss	385-268-2570	indianielsen@utah.gov
JC Bailey	801-538-7361	jcbailey@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

### General Information

<b>2. Rule or section catchline:</b>
R650-208. Backing Plates
<b>3. Purpose of the new rule or reason for the change:</b>
The Division of Outdoor Recreation, the agency mandated by Title 73, Chapter 18, to oversee the State Boating Act, clarifies in this rule how to attach the assigned vessel number on vessels where it would not be visible on the hull or superstructure.
<b>4. Summary of the new rule or change:</b>
This rule clarifies how to attach the assigned vessel number on vessels where it would not be visible on the hull or superstructure through the use of a backing plate.
This rule previously existed under Title R651.

### Fiscal Information

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There are no anticipated costs or savings to the state budget, this rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.
<b>B) Local governments:</b>
There are no anticipated costs or savings for local governments associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

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

There are no anticipated costs or savings for small businesses associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

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

The proposed rule does not have a fiscal impact on non-small businesses, nor will a service be required of them to implement this rule.

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

There are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

#### **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 anticipated compliance costs for affected persons.

This rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

#### **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

## NOTICES OF PROPOSED RULES

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

## Citation Information

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Subsection 73-18-7(4)	Subsection 73-18-7(17)(a)	

## Public Notice Information

<b>8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)</b>	
<b>A) Comments will be accepted until:</b>	01/03/2024
<b>9. This rule change MAY become effective on:</b>	
01/10/2024	
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

## Agency Authorization Information

<b>Agency head or designee and title:</b>	Jason Curry, Director	<b>Date:</b>	10/13/2023
---	--------------------------	--------------	------------

## R650. Natural Resources, Outdoor Recreation.

R650-208. Backing Plates.R650-208-1. Backing Plates.

On vessels where an assigned vessel number on the hull or superstructure would not be visible, the vessel owner may mount the vessel number and registration decals on a backing plate that is:

(1) attached to the forward half of the vessel such that the number is visible from each side of the vessel; and

(2) displayed as required by Subsection 73-18-7(4) and Rule R650-212.

KEY: boatingDate of Last Change: 2024Authorizing, and Implemented or Interpreted Law: 73-18-7(4); 73-18-7(17)(a)

## NOTICE OF PROPOSED RULE

TYPE OF FILING: New

<b>Rule or Section Number:</b>	<b>R650-209</b>	<b>Filing ID:</b>	<b>56086</b>
--------------------------------	-----------------	-------------------	--------------

## Agency Information

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Outdoor Recreation	
<b>Room number:</b>	100	
<b>Building:</b>	Department of Natural Resources Building	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ty Hunter	801-440-5106	tyhunter@utah.gov
India Nielsen Barfuss	385-268-2570	indianielsen@utah.gov
JC Bailey	801-538-7361	jcbailey@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

## General Information

<b>2. Rule or section catchline:</b>
R650-209. Anchored and Beached Vessels

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

The Division of Outdoor Recreation, the agency mandated by Title 73, Chapter 18, to oversee the State Boating Act, clarifies the regulations concerning anchored and beached vessels near or in Utah bodies of water.

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

This rule states the regulations concerning anchored and beached vessels near or in Utah bodies of water.

This rule previously existed under Title R651.

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

There are no anticipated costs or savings to the state budget, this rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

**B) Local governments:**

There are no anticipated costs or savings for local governments associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

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

There are no anticipated costs or savings for small businesses associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

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

The proposed rule does not have a fiscal impact on non-small businesses, nor will a service be required of them to implement this rule.

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

There are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

**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 anticipated compliance costs for affected persons.

This rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

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

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

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

The Executive Director of the Department of 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:**

Subsection  
73-18-4(1)(e)

**Public Notice Information**

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jason Curry, Director	<b>Date:</b>	10/13/2023
---	--------------------------	--------------	------------

**R650. Natural Resources, Outdoor Recreation.****R651-209. Anchored and Beached Vessels.****R650-209-1. Anchored Vessels.**

(1) Unless permitted to do so by the local managing agency, a vessel owner or operator may not leave:

(a) an anchored vessel unattended for more than 48 hours;  
or

(b) a vessel anchored for more than 72 hours in one location.

(2) A vessel owner or operator who has anchored a vessel on a waterbody for 72 hours, and who wishes to continue to anchor the vessel on the same waterbody, must move the vessel at least two miles away from the place the vessel was last anchored.

**R650-209-2. Beached Vessels.**

(1) Unless permitted to do so by the local managing agency, a vessel owner or operator may not leave:

(a) a beached vessel unattended for more than 48 hours; or  
(b) a vessel beached for more than 72 hours in one location.

(2) A vessel owner or operator who has beached a vessel for 72 hours, and who wishes to continue to beach the vessel on the same waterbody, must move the vessel at least two miles away from the place the vessel was last beached.

**KEY: boating, anchored vessels, beached vessels**

**Date of Last Change: 2024**

**Authorizing, and Implemented or Interpreted Law: 73-18-4(1)(e)**

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** New

<b>Rule or Section Number:</b>	<b>R650-210</b>	<b>Filing ID:</b> <b>56087</b>
--------------------------------	-----------------	-----------------------------------

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Outdoor Recreation	
<b>Room number:</b>	100	
<b>Building:</b>	Department of Natural Resources Building	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ty Hunter	801-440-5106	tyhunter@utah.gov
India Nielsen Barfuss	385-268-2570	indianielsen@utah.gov
JC Bailey	801-538-7361	jcbailey@utah.gov

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

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

R650-210. Change of Address

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

The Division of Outdoor Recreation (Division), the agency mandated by Title 73, Chapter 18, to oversee the State Boating Act, clarifies the requirements for vessel owners in notifying the Division concerning change of address.

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

The clarification of the requirements for vessel owners in notifying the Division concerning change of address.

This rule previously existed under Title R651.

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

There are no anticipated costs or savings to the state budget, this rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

**B) Local governments:**

There are no anticipated costs or savings for local governments associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

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

There are no anticipated costs or savings for small businesses associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

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

The proposed rule does not have a fiscal impact on non-small businesses, nor will a service be required of them to implement this rule.

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

There are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

**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 anticipated compliance costs for affected persons.

This rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

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

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0

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

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

The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.

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

Subsection 73-18-7(13)(b)		
------------------------------	--	--

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jason Curry, Director	<b>Date:</b>	10/13/2023
---	--------------------------	--------------	------------

**R650. Natural Resources, Outdoor Recreation.****R650-210. Change of Address.****R650-210-1. Change of Address.**

The registered owner of a motorboat or sailboat shall:

(1) notify the division or agent of the division of any change in the registered owner's address; and

(2) after notifying the division pursuant to Subsection (1), note the new address on the registered owner's current registration card.

**KEY: boating**

**Date of Last Change: 2024**

**Authorizing, and Implemented or Interpreted Law: 73-18-7(13)(b)**

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** New

<b>Rule or Section Number:</b>	<b>R650-211</b>	<b>Filing ID:</b> <b>56088</b>
--------------------------------	-----------------	-----------------------------------

**Agency Information**

Agency information

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Outdoor Recreation	
<b>Room number:</b>	100	
<b>Building:</b>	Department of Natural Resources Building	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ty Hunter	801-440-5106	tyhunter@utah.gov
India Nielsen Barfuss	385-268-2570	indianielsen@utah.gov
JC Bailey	801-538-7361	jcbailey@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R650-211. Assigned Numbers

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

The Division of Outdoor Recreation, the agency mandated by Title 73, Chapter 18, to oversee the State Boating Act, clarifies what constitutes assigned numbers for vessels in Utah.

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

The purpose of this rule is the clarification of what constitutes assigned numbers for vessels in Utah in compliance with Administrative Rules Guidelines.

This rule is still in accordance with State Park Rule R651-211, this rule is to create the same rule for the new Division of Outdoor Recreation.

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

There are no anticipated costs or savings to the state budget, this rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

**B) Local governments:**

There are no anticipated costs or savings for local governments associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

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

There are no anticipated costs or savings for small businesses associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

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

The proposed rule does not have a fiscal impact on non-small businesses, nor will a service be required of them to implement this rule.

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

There are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities associated with this rule.



The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

**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 anticipated compliance costs for affected persons.

This rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

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

**Regulatory Impact Table**

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

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

The Executive Director of the Department of 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:**

Subsection		
73-18-7(17)(a)		

**Public Notice Information**

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jason Curry, Director	<b>Date:</b>	10/13/2023
---	--------------------------	--------------	------------

**R650. Natural Resources, Outdoor Recreation.**

**R650-211. Assigned Numbers.**

**R650-211-1. Assigned Numbers.**

(1) The division shall assign numbers to vessels as required by law.

(2) A vessel number assigned by the division shall consist of:

(a) the prefix letters "UT" to designate the State of Utah;

(b) one to four numerals; and

(c) two suffix letters that may designate a certain type of vessel.

(2) The suffix letters that designate a certain type of vessel are:

(a) AB, for an airboat;

(b) DL, for a marine dealer or manufacturer; and

(c) EX, for exempt vessels used only for official government business.

(3) The division shall randomly assign all suffixes other than those set out in Subsection (2).

**R650-211-2. Assigned Number Reserved for the Division.**

The vessel number UT 2628 BP is reserved for the division's use in boating education and law enforcement training and may not be assigned to any vessel.

**KEY: boating**

**Date of Last Change: 2024**

**Authorizing, and Implemented or Interpreted Law: 73-18-7(17)(a)**

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	R650-212	Filing ID: 56089

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Outdoor Recreation	
<b>Room number:</b>	100	
<b>Building:</b>	Department of Natural Resources Building	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ty Hunter	801-440-5106	tyhunter@utah.gov
India Nielsen Barfuss	385-268-2570	indianielsen@utah.gov
JC Bailey	801-538-7361	jcbailey@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

2. Rule or section catchline:
R650-212. Display of Yearly Registration Decals and Month of Expiration Decals
3. Purpose of the new rule or reason for the change:
The Division of Outdoor Recreation, the agency mandated by Title 73, Chapter 18, to oversee the State Boating Act, clarifies the requirements for displaying yearly registration and month of expiration decals.
4. Summary of the new rule or change:
This rule states the requirements for displaying yearly registration and month of expiration decals.
This rule previously existed under Title R651.

**Fiscal Information**

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

**A) State budget:**

There are no anticipated costs or savings to the state budget, this rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

**B) Local governments:**

There are no anticipated costs or savings for local governments associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

There are no anticipated costs or savings for small businesses associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

The proposed rule does not have a fiscal impact on non-small businesses, nor will a service be required of them to implement this rule.

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

There are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

**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 anticipated compliance costs for affected persons.

This rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

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

**Citation Information**

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Subsection		
73-18-7(18)(b)		

**Public Notice Information**

<b>8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)</b>	
<b>A) Comments will be accepted until:</b>	01/03/2024

<b>9. This rule change MAY become effective on:</b>	01/10/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jason Curry, Director	<b>Date:</b>	10/13/2023
---	-----------------------	--------------	------------

**R650. Natural Resources, Outdoor Recreation.****R650-212. Display of Yearly Registration Decals and Month of Expiration Decals.****R650-212-1. Display of Registration Decals.**

(1) A person shall display current year registration decals three inches aft of the assigned vessel number on each side of the vessel.

(2) On documented vessels, a person shall display current year registration decals on each side of the forward half of the vessel.

(3) A person may only display current year registration decals on a vessel.

**R650-212-2. Month of Expiration Decal.**

A person shall display a month of expiration decal immediately after a current year registration decal.

**KEY: boating****Date of Last Change: 2024****Authorizing, and Implemented or Interpreted Law: 73-18-7(18)(b)****NOTICE OF PROPOSED RULE**

<b>TYPE OF FILING:</b> New		
<b>Rule or Section Number:</b>	<b>R650-213</b>	<b>Filing ID:</b> <b>56090</b>

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Outdoor Recreation	
<b>Room number:</b>	100	
<b>Building:</b>	Department of Natural Resources Building	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ty Hunter	801-440-5106	tyhunter@utah.gov
India Nielsen Barfuss	385-268-2570	indianielsen@utah.gov

JC Bailey	801-538-7361	jcbailey@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R650-213. Dealer Numbers and Registrations
<b>3. Purpose of the new rule or reason for the change:</b>
The Division of Outdoor Recreation, the agency mandated by Title 73, Chapter 18, to oversee the State Boating Act, clarifies the use of boat dealer numbers and registrations.
<b>4. Summary of the new rule or change:</b>
This rule clarifies the use of boat dealer numbers and registrations.
This rule previously existed under Title R651.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There are no anticipated costs or savings to the state budget, this rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.
<b>B) Local governments:</b>
There are no anticipated costs or savings for local governments associated with this rule.
The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
There are no anticipated costs or savings for small businesses associated with this rule.
The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
The proposed rule does not have a fiscal impact on non-small businesses, nor will a service be required of them to implement this rule.

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

There are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

**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 anticipated compliance costs for affected persons.

This rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

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

<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.			

**Citation Information**

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Subsection 73-18-7(18)(c)		

**Public Notice Information**

<b>8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)</b>	
<b>A) Comments will be accepted until:</b>	01/03/2024

<b>9. This rule change MAY become effective on:</b>	01/10/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jason Curry, Director	<b>Date:</b>	10/13/2023
---	-----------------------	--------------	------------

**R650. Natural Resources, Outdoor Recreation.****R650-213. Dealer Numbers and Registrations.****R650-213-1. Dealer Numbers and Registrations.**

(1) Each dealer that is engaged in the business of selling motorboats or sailboats may apply to the division to obtain dealer numbers and registration decals.

(2) The dealer's application to the division shall contain the following:

- (a) the name of the business;
- (b) the business' address;
- (c) the business owner's name;
- (d) if the business is a corporation, the names of the principal officers of the corporation;
- (e) the types of vessels offered for sale; and
- (f) the manufacture line of vessels for which the dealer holds franchise from the manufacturer to sell.

(3) A dealer shall attach to its application copies of the appropriate city, county, and state licenses required for the dealer to do business in this state.

(4) Upon a dealer's filing of a complete application with the division, the division may assign dealer numbers and registration decals to the dealer.

(5)(a) Dealer numbers and registration decals issued pursuant to Subsection (4) are valid only when the dealer is demonstrating, servicing, or testing a motorboat or sailboat.

(b) A dealer or an employee of the dealer shall be present during any demonstration, servicing, or testing.

(6) A dealer may not use a dealer number or registration decal on any vessel the dealer rents or leases, or on a vessel that is not part of the dealer's inventory available for immediate sale.

(7)(a) A dealer shall mount a dealer number and registration decal on a backing plate.

(b) A dealer may not permanently affix to a vessel its dealer number or registration decal.

(8) The division may suspend or revoke a dealer's numbers and registration decals if:

(a) the division reasonably believes that a dealer has failed to comply with any of the provisions in this rule; or

(b) a dealer permits an individual to operate a vessel using the dealer's number and registration decal and that individual is convicted of violating Section 41-6a-502 as result of operating said vessel.

(9) A dealer shall surrender all its dealer numbers and registration decals to the division within 15 days of the division notifying the dealer of any revocation or suspension of its dealer numbers or decals.

(10) Dealer numbers and registration decals expire annually on the last day of April.

**KEY: boating**

**Date of Last Change: 2024**

**Authorizing, and Implemented or Interpreted Law: 73-18-7(18)(c)**

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** New

<b>Rule or Section Number:</b>	<b>R650-214</b>	<b>Filing ID:</b> <b>56091</b>
--------------------------------	-----------------	-----------------------------------

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Outdoor Recreation	
<b>Room number:</b>	100	
<b>Building:</b>	Department of Natural Resources Building	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ty Hunter	801-440-5106	tyhunter@utah.gov

## NOTICES OF PROPOSED RULES

India Nielsen Barfuss	385-268-2570	indianielsen@utah.gov
JC Bailey	801-538-7361	jcbailey@utah.gov

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

### General Information

#### 2. Rule or section catchline:

R650-214. Temporary Registration

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

The Division of Outdoor Recreation, the agency mandated by Title 73, Chapter 18, to oversee the State Boating Act, clarifies the issuance and use of temporary boat registrations.

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

The purpose of this rule is to clarify the issuance and use of temporary boat registrations in compliance with Administrative Rules Guidelines.

This rule is still in accordance with State Park Rule R651-215, this new rule is to create a rule for the new Division of Outdoor Recreation.

### Fiscal Information

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

##### A) State budget:

There are no anticipated costs or savings to the state budget, this rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

##### B) Local governments:

There are no anticipated costs or savings for local governments associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

There are no anticipated costs or savings for small businesses associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

The proposed rule does not have a fiscal impact on non-small businesses, nor will a service be required of them to implement this rule.

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

There are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

##### 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 anticipated compliance costs for affected persons.

This rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

#### Regulatory Impact Table

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



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

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

The Executive Director of the Department of 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:**

Subsection 73-18-7(3)		
-----------------------	--	--

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	01/10/2024
---	------------

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jason Curry, Director	<b>Date:</b>	10/13/2023
---	-----------------------	--------------	------------

**R650. Natural Resources, Outdoor Recreation.**

**R650-214. Temporary Registration.**

**R650-214-1. Temporary Registration.**

(1) A dealer may apply to the Division of Motor Vehicles for a temporary registration for a motorboat or sailboat sold by the dealer's business.

(2) A temporary registration issued by the Division of Motor Vehicles is valid for a period not to exceed 45 days from date of issue.

(3) A dealer may not apply for a temporary registration for any a motorboat or sailboat held for sale in the dealer's inventory.

(4) A dealer may not apply for more than one temporary registration for any one motorboat or sailboat sold.

(5)(a) A dealer shall maintain a record of each temporary registration the dealer obtains.

(b) The record required by Subsection (5)(a) shall contain a description of the vessel sold, the name and address of the purchaser, and the date the Division of Motor Vehicles issued the temporary registration.

(6) A dealer shall during business hours make available for inspection and audit by authorized agents of the division temporary registration records the dealer maintains pursuant to Subsection (5)(a).

(7)(a) If the division reasonably believes that a dealer has failed to comply with any of the provisions set out in Subsections R650-214-1(1) through R650-214-1(6), the division may, after notice to the dealer and a hearing, temporarily suspend the dealer's ability to apply for a temporary registration.

(b) Within 15 days of the division's suspension, the dealer shall surrender all unissued temporary registrations to the Division of Motor Vehicles.

(8) The division may grant to a vessel owner a temporary permit to operate a vessel for which application for registration has been made or, in the case of a newly purchased vessel, will be made if:

(a) the vessel owner provides the division with evidence of ownership; and

(b) the vessel owner pays the registration fee set by the division.

(9) A vessel owner may operate a vessel under a temporary permit issued by the division pending issuance of a registration pursuant to Section 73-18-7.

(10) A vessel owner operating a vessel under a temporary permit issued by the division shall display the temporary permit on the vessel.

(11) A vessel owner operating a vessel under a temporary permit issued pursuant to this rule is subject to all other statutes, rules, and regulations applicable to the use and operation of a vessel on the waterways of this state.

(12)(a) The division may issue a relocation permit that allows a vessel owner to operate a vessel for purposes of testing the vessel's mechanical worthiness or seaworthiness.

(b) A vessel owner may operate a vessel on a waterway under a relocation permit for a period not to exceed 96 hours.

(c) The division may issue a relocation permit without requiring a property tax clearance for the vessel subject to the permit.

(d) A vessel owner operating a vessel under a relocation permit is subject to all other statutes, rules, and regulations intended to control the use and operation of vessels on the waterways of this state.

**KEY: boating**

**Date of Last Change: 2024**

**Authorizing, and Implemented or Interpreted Law: 73-18-7(3)**

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** New

<b>Rule or Section Number:</b>	<b>R650-215</b>	<b>Filing ID:</b>	<b>56092</b>
--------------------------------	-----------------	-------------------	--------------

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Outdoor Recreation	
<b>Room number:</b>	100	
<b>Building:</b>	Department of Natural Resources Building	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ty Hunter	801-440-5106	tyhunter@utah.gov
India Nielsen Barfuss	385-268-2570	indianielsen@utah.gov
JC Bailey	801-538-7361	jcbailey@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R650-215. Personal Flotation Devices
<b>3. Purpose of the new rule or reason for the change:</b>
The Division of Outdoor Recreation, the agency mandated by Title 73, Chapter 18, to oversee the State Boating Act, clarifies the definition, requirements, and restrictions of personal flotation devices.
<b>4. Summary of the new rule or change:</b>
This rule clarifies the definition, requirements, and restrictions of personal flotation devices.
This rule previously existed under Title R651.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There are no anticipated costs or savings to the state budget, this rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.
<b>B) Local governments:</b>
There are no anticipated costs or savings for local governments associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

There are no anticipated costs or savings for small businesses associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

The proposed rule does not have a fiscal impact on non-small businesses, nor will a service be required of them to implement this rule.

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

There are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

**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 anticipated compliance costs for affected persons.

This rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

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

**Citation Information**

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Section 73-18-8		

**Public Notice Information**

<b>8. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
<b>A) Comments will be accepted until:</b>	01/03/2024

<b>9. This rule change MAY become effective on:</b>	01/10/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jason Curry, Director	<b>Date:</b>	10/13/2023
---	--------------------------	--------------	------------

**R650. Natural Resources, Outdoor Recreation.****R650-215. Personal Flotation Devices.****R650-215-1. Definitions.**

As used in this rule:

(1) "Personal flotation device" or "PFD" means a device that is:

(a) in serviceable condition; and

(b) approved by the Commandant of the United States Coast Guard pursuant to 46 CFR part 160.

(2) "Throwable PFD" means a PFD that is intended to be thrown to a person in the water.

(a) A PFD marked as Type IV or Type V, with Type IV performance, is considered a throwable PFD.

(b) Unless specifically marked otherwise, a wearable PFD is not a throwable PFD.

(3) "Vessel length" means the measurement of the permanent part of the hull, from bow to stern, across the deck down the centerline, excluding sheer.

(4) "Wear" means to have a PFD properly worn with all fasteners connected.

(5)(a) "Wearable PFD" means a PFD that is intended to be worn or otherwise attached to the body.

(b) A PFD marked as Type I, Type II, Type III, or Type V, with Type I, II or III performance, is considered a wearable PFD.

**R650-215-2. Type IV PFD Requirements.**

(1) A person may not operate, or give permission to an individual to operate, a vessel that is between 16 feet and 40 feet in length unless there is at least one throwable PFD on board the vessel.

(2)(a) A person may not operate, or give permission to an individual to operate, a vessel that is greater than 40 feet in length unless there are at least two throwable PFDs on board the vessel.

(b) One of the PFDs required by Subsection 2(a) must be a minimum 18" ring buoy type with at least 30 feet of rope attached.

(c) One of the PFDs required by Subsection 2(a) must be located near the bow of the vessel.

(d) One of the PFDs required by Subsection 2(a) must be located near the stern of the vessel when the configuration of the vessel allows for a PFD to be stored near the stern

**R650-215-3. Immediately Available and Readily Accessible.**

(1) Unless a vessel passenger is required by law, rule, or regulation to wear a PFD, a vessel operator shall ensure:

(a) all Type IV PFDs that are onboard a vessel are immediately available for use by vessel passengers; and

(b) all other types of PFDs that are onboard a vessel are readily accessible to vessel passengers.

**R650-215-4. Type V PFD Carried in Lieu.**

A vessel operator or passenger may carry or wear a Type V PFD in lieu of another required PFD only if it is used according to the approval conditions on its label.

**R650-215-5. Whitewater River PFD Requirements.**

On whitewater rivers, as defined in Subsection R650-206-2(1), a vessel operator shall carry Type I or Type III PFDs on board the vessel and shall ensure all PFDs are used according to the approval conditions on their labels.

**R650-215-6. Required Wearing of PFDs.**

(1) A person may not use an inflatable PFD to meet the requirements of this section.

## NOTICES OF PROPOSED RULES

(2) All persons on board a personal watercraft shall wear a PFD.

(3) The operator of a vessel under 19 feet in length shall ensure each passenger 12 years of age or younger wears a PFD at all times while onboard the vessel.

(4) The operator of a vessel 19 feet or more in length shall ensure each passenger 12 years of age or younger wears a PFD at all times while onboard the vessel, except when the passenger is inside a cabin area.

(5) On every river, every person on board a vessel shall wear a PFD, except that a PFD may be loosened or removed by a person 13 years of age or older on designated flat water river sections as listed in Section R650-215-10.

### **R650-215-7. Designated Flatwater River Sections.**

(1) Flatwater river sections on the Green River extend:

(a) from Red Creek Camp, below Red Creek Rapids to the Indian Crossing Boat Ramp;

(b) from 100 yards below Taylor Flats Bridge to the Utah or Colorado state line in Browns Park;

(c) within Dinosaur National Monument, from the mouth of Whirlpool Canyon to the head of Split Mountain Gorge;

(d) from the mouth of Split Mountain to Jack Creek in Desolation Canyon; and

(e) from the Green River Diversion Dam, below Gray Canyon, to the confluence with the Colorado River.

(2) Flatwater river sections on the Colorado River extend:

(a) from the Colorado or Utah state line to the Westwater Ranger Station;

(b) from Big Hole Canyon in Westwater Canyon to Onion Creek;

(c) from Drinks Canyon, mile 70, to the confluence with the Green River; and

(d) after the last active rapid in Cataract Canyon.

(3) Flatwater river sections on the San Juan River extend from after the last active rapid before Lake Powell to Lake Powell.

### **R650-215-8. PFD Use Restrictions.**

A person shall use a PFD according to the conditions or restrictions listed on the PFD's U.S. Coast Guard Approval Label.

**KEY: boating**

**Date of Last Change: 2024**

**Authorizing, and Implemented or Interpreted Law: 73-18-8**

### **NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** New

<b>Rule or Section Number:</b>	<b>R650-216</b>	<b>Filing ID:</b> <b>56093</b>
--------------------------------	-----------------	-----------------------------------

### **Agency Information**

<b>1. Department:</b>	Natural Resources
<b>Agency:</b>	Outdoor Recreation
<b>Room number:</b>	100
<b>Building:</b>	Department of Natural Resources Building
<b>Street address:</b>	1594 W North Temple

<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ty Hunter	801-440-5106	tyhunter@utah.gov
India Nielsen Barfuss	385-268-2570	indianielsen@utah.gov
JC Bailey	801-538-7361	jcbaily@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

### **General Information**

#### **2. Rule or section catchline:**

R650-216. Navigation Lights

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

The Division of Outdoor Recreation, the agency mandated by Title 73, Chapter 18, to oversee the State Boating Act, clarifies the type, color, and use of navigation lights.

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

This rule clarifies the type, color, and use of navigation lights.

This rule previously existed under Title R651.

### **Fiscal Information**

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

##### **A) State budget:**

There are no anticipated costs or savings to the state budget, this rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

##### **B) Local governments:**

There are no anticipated costs or savings for local governments associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

There are no anticipated costs or savings for small businesses associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

The proposed rule does not have a fiscal impact on non-small businesses, nor will a service be required of them to implement this rule.

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

There are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

**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 anticipated compliance costs for affected persons.

This rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

**Regulatory Impact Table**

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

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

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

The Executive Director of the Department of 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:**

Subsection 73-18-8(2)		
--------------------------	--	--

**Incorporations by Reference Information**

**7. Incorporations by Reference:**

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

<b>Official Title of Materials Incorporated (from title page)</b>	Navigation Lights
<b>Publisher</b>	Division of Outdoor Recreation
<b>Issue Date</b>	11/01/2023

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

**9. This rule change MAY become effective on:** 01/10/2024

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



**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jason Curry, Director	<b>Date:</b>	10/13/2023
---	--------------------------	--------------	------------

**R650. Natural Resources, Outdoor Recreation.****R650-216. Navigation Lights.****R650-216-1. Navigation Lights on Motorboats Less Than 40 Feet.**

The owner or operator of a motorboat that is less than 40 feet in length shall ensure the motorboat exhibits the navigation lights shown in Navigation Lights figures 1, 2, or 3, published by the Division on November 1, 2023, which are incorporated by reference and available at <https://recreation.utah.gov/boating/rules-and-regulations>.

**R650-216-2. Navigation Lights on Motorboats 40 Feet or Greater in Length.**

The operator of a motorboat that is 40 feet in length or greater shall ensure the motorboat exhibits the navigation lights shown in Navigation Lights figures 1 or 2, published by the Division on November 1, 2023, which are incorporated by reference and available at <https://recreation.utah.gov/boating/rules-and-regulations>.

**R650-216-3. Navigation Lights on Sailboats.**

The operator of a sailboat shall ensure the sailboat exhibits the navigation lights shown in Navigation Lights figures 4, 5, or 6, published by the Division on November 1, 2023, which are incorporated by reference and available at <https://recreation.utah.gov/boating/rules-and-regulations>.

**R650-216-4. Navigation Lights on Sailboats Under Motor Power.**

The operator of a sailboat under motor power shall, depending on its length, ensure the sailboat exhibits the navigation light requirements for a motorboat set out in Sections R650-216-1 and R650-216-2.

**R650-216-5. Navigation Lights on Manually Propelled Vessels.**

The operator of a vessel that is under manual propulsion shall:

(1) exhibit on the vessel the navigation lights required for sailboats set out in Section R650-216-3; or

(2) have ready at hand a flashlight or lighted lantern showing a white light which shall be displayed in sufficient time to prevent collision and as shown in Navigation Lights figure 7, published by the Division on November 1, 2023, which is incorporated by reference and available at <https://recreation.utah.gov/boating/rules-and-regulations>.

**R650-216-6. Displaying All Around White Anchor Light on Vessels at Anchor.**

A person who anchors a vessel shall ensure the vessel displays an all-round white anchor light while the vessel is at anchor, unless the vessel is anchored in a designated mooring area.

**R650-216-7. Visible Range and Use of Non-Navigational Lights.**

(1) The operator of a vessel shall ensure the vessel's masthead lights, all-around lights, side lights, and stern lights are visible at the ranges set out in the below Table 1.

TABLE 1			
LOCATION	CLASS A, 1 or 2	CLASS 3	DEGREES
Masthead light	2 miles	3 miles	225
All-round light	2 miles	2 miles	360
Side lights	1 mile	2 miles	112.5
Stern light	2 miles	2 miles	135

(2) A vessel may only display lights as outlined in Table 1, except a vessel may display:

(a) a spotlight or other non-navigational light intermittently to locate a hazard to navigation;

(b) non-navigational lights during a federal or state permitted marine parade; or

(c) a spotlight or other non-navigational light when the vessel is actively engaged in fishing, bow fishing, or scientific research in a navigational channel when the vessel is being operated at a wakeless speed.

**KEY: boating**

**Date of Last Change: 2024**

**Authorizing, and Implemented or Interpreted Law: 73-18-8(2)**

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** New

<b>Rule or Section Number:</b>	<b>R650-217</b>	<b>Filing ID:</b> <b>56094</b>
--------------------------------	-----------------	-----------------------------------

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Outdoor Recreation	
<b>Room number:</b>	100	
<b>Building:</b>	Department of Natural Resources Building	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ty Hunter	801-440-5106	tyhunter@utah.gov
India Nielsen Barfuss	385-268-2570	indianielsen@utah.gov
JC Bailey	801-538-7361	jcbaily@utah.gov

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

**General Information**

**2. Rule or section catchline:**

R650-217. Fire Extinguishers



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

The Division of Outdoor Recreation, the agency mandated by Title 73, Chapter 18, to oversee the State Boating Act, defines the type, amount per boat length, and requirements for fire extinguishers in this rule.

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

This rule defines the type, amount per boat length, and requirements for fire extinguishers.

This rule previously existed under Title R651.

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

There are no anticipated costs or savings to the state budget, this rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

**B) Local governments:**

There are no anticipated costs or savings for local governments associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

There are no anticipated costs or savings for small businesses associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

The proposed rule does not have a fiscal impact on non-small businesses, nor will a service be required of them to implement this rule.

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

There are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

**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 anticipated compliance costs for affected persons.

This rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

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

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

The Executive Director of the Department of 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:**

Subsection  
73-18-8(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:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jason Curry, Director	<b>Date:</b>	10/13/2023
---	--------------------------	--------------	------------

**R650. Natural Resources, Outdoor Recreation.****R650-217. Fire Extinguishers.****R650-217-1. Fire Extinguishers Required.**

(1) A motorboat operator shall ensure the motorboat has on board a fire extinguisher in the quantity and sizes set out in the below Table 1.

TABLE 1	
LENGTH OF MOTORBOAT	NUMBER/SIZE
Less than 26 feet in length	1/B-I
26 feet to less than 40 feet in length	2/B-I or 1/B-II
40 feet to 65 feet in length	3/B-I or 1/B-I and 1/B-II

(2) A motorboat operator is not required to have a fire extinguisher on board the vessel if the vessel is:

(a) less than 26 feet in length;

(b) of open construction; and

(c) not carrying passengers for hire.

(3) If a motorboat is not equipped with an engine compartment, a motorboat operator is not required to have a fixed extinguishing system on board the vessel.

(4) If a motorboat operator is required to have a B-II size fire extinguisher on board a vessel, the operator shall place the B-II size fire extinguisher near the stern.

(5) If a motorboat is not equipped with a galley and the motorboat operator is required to carry a B-II size fire extinguisher on board the vessel, the operator shall place the B-II size fire extinguisher midship.

(6) A vessel operator shall ensure each fire extinguisher carried on board a vessel pursuant to this rule is properly charged.

**R650-217-2. Fire Extinguisher Types.**

A vessel operator shall ensure each Size B-I and B-II fire extinguisher carried on board a vessel pursuant to this rule contains either carbon, dry, halon foam, or dioxide chemical retardants in the quantities specified in the below Table 2.

TABLE 2				
LISTING TYPES:	CARBON	DRY	HALON FOAM	DIOXIDE CHEMICAL
B-I	1.25 gal	4 lbs	2 lbs	2.5 lbs
B-II	2.5 gal	15 lbs	10 lbs	10 lbs

**R650-217-3. Engine Compartment Fire Extinguishers.**

When a vessel's engine compartment is equipped with a fixed extinguishing system, a vessel operator may carry on board a vessel one less B-I extinguisher than would otherwise be required by Section R650-217-1.

**R650-217-4. Motorboats of Open Construction.**

A motorboat is considered of open construction if its sole source of propulsion is an outboard motor, and it is not equipped with:

(1) a closed compartment under thwarts, such as the motor well or a structural crosspiece that sometimes forms a seat;

(2) seats where portable fuel tanks may be stored;

(3) double bottoms that are not sealed to the hull;

(4) double bottoms that are not filled with flotation material;

(5) closed living spaces;

(6) closed stowage compartments in which combustible or flammable materials are stored; or

(7) permanently installed fuel tanks.

**R650-217-5. Certifying, Recharging, or Servicing a Fire Extinguisher.**

(1) A vessel operator shall ensure that each fire extinguisher carried on board a vessel, except for a disposable fire extinguisher, shows evidence of being certified, recharged, or serviced:

(a) by a qualified fire-fighting equipment repair servicer at least once every five years; or

(b) pursuant to a current standard published in the National Fire Protection Agency Publication 10.

**R650-217-6. Disposable Fire Extinguishers.**

(1) The serviceability of a disposable fire extinguisher expires:

(a) upon being discharged;

(b) upon loss of pressure or charge;

(c) upon 12 years from the date of manufacture printed on the label or imprinted on the bottom of the fire extinguisher; or

(d) if the content pressure gauge attached to the fire extinguisher indicates the fire extinguisher is either overcharged or undercharged.

(2) If a fire extinguisher is incapable of being certified, recharged, or serviced by a qualified fire-fighting equipment repair service, it is considered disposable.

**KEY:** boating

**Date of Last Change:** 2024

**Authorizing, and Implemented or Interpreted Law:** 73-18-8(4)

## NOTICE OF PROPOSED RULE

**TYPE OF FILING:** New

<b>Rule or Section Number:</b>	<b>R650-218</b>	<b>Filing ID:</b> <b>56095</b>
--------------------------------	-----------------	-----------------------------------

### Agency Information

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Outdoor Recreation	
<b>Room number:</b>	100	
<b>Building:</b>	Department of Natural Resources Building	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ty Hunter	801-440-5106	tyhunter@utah.gov
India Nielsen Barfuss	385-268-2570	indianielsen@utah.gov
JC Bailey	801-538-7361	jcbaily@utah.gov

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

### General Information

<b>2. Rule or section catchline:</b>
R650-218. Carburetor Backfire Flame Control
<b>3. Purpose of the new rule or reason for the change:</b>
The Division of Outdoor Recreation, the agency mandated by Title 73, Chapter 18, to oversee the State Boating Act, clarifies the requirements for carburetor backfire flame control with this rule.
<b>4. Summary of the new rule or change:</b>
This rule clarifies the requirements for carburetor backfire flame control.
This rule previously existed under Title R651.

### Fiscal Information

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

##### A) State budget:

There are no anticipated costs or savings to the state budget, this rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

##### B) Local governments:

There are no anticipated costs or savings to the local governments associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

There are no anticipated costs or savings for the small businesses associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

The proposed rule does not have a fiscal impact on non-small businesses, nor will a service be required of them to implement this rule.

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

There are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

##### 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 anticipated compliance costs for affected persons.

This rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

**Regulatory Impact Table**

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

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

The Executive Director of the Department of 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:**

Subsection 73-18-8(5)		
-----------------------	--	--

**Public Notice Information**

**8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the**

agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jason Curry, Director	<b>Date:</b>	10/13/2023
---	-----------------------	--------------	------------

**R650. Natural Resources, Outdoor Recreation.**

**R650-218. Carburetor Backfire Flame Control.**

**R650-218-1. Backfire Flame Control Required.**

(1) A vessel owner or operator shall ensure a gasoline engine used to power a vessel is equipped with an acceptable means of backfire flame control.

**R650-218-. Acceptable Means of Backfire Flame Control.**

(1) A backfire flame arrester that complies with, and is appropriately marked as, SAE J-1928 or UL1111, and that is secured to the engine's air intake with a flame-tight connection, is an acceptable means of backfire flame control.

(2)(a) An engine air and fuel induction system that provides adequate protection from the propagation of backfire flame to the atmosphere equivalent to that proved by an acceptable backfire flame arrester is an acceptable means of backfire flame control.

(b) A vessel owner or operator shall ensure a gasoline engine utilizing an air and fuel induction system that is operated without an approved backfire flame arrester includes a reed valve assembly, unless the air and fuel induction system is installed in accordance with SAE J-1928 or other standard specified by the Commandant of the United States Coast Guard.

(3)(a) An arrangement of the carburetor or engine air induction system that will disperse any flames caused by engine backfire is an acceptable means of backfire flame control.

(b) A vessel owner or operator shall ensure that any flame dispersed to the atmosphere outside the vessel is dispersed in such a manner that the flames will not endanger the vessel, persons on board, or nearby vessels and structures.

(c) A vessel owner or operator may achieve proper flame dispersion by attaching the induction system to the carburetor or location of the engine air induction system.

(d) A vessel owner or operator shall ensure that any attachment made pursuant to Subsection (3)(c) is of metallic construction with flame-tight connections and that the attachment is firmly secured to withstand vibration, shock, and engine backfire.

(4) A vessel owner or operator shall ensure an engine air induction system used on a vessel with an integrated engine vessel design is approved, marked, and tested as specified by the Commandant of the United States Coast Guard.

**KEY: boating**

**Date of Last Change: 2024**

**Authorizing, and Implemented or Interpreted Law: 73-18-8(5)**

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	R650-219	Filing ID: 56126

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Outdoor Recreation	
<b>Room number:</b>	100	
<b>Building:</b>	Department of Natural Resources Building	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ty Hunter	801-440-5106	tyhunter@utah.gov
India Nielsen Barfuss	385-268-2570	indianielsen@utah.gov
JC Bailey	801-538-7361	jcbailey@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

2. Rule or section catchline:
R650-219. Additional Safety Equipment
3. Purpose of the new rule or reason for the change:
The Division of Outdoor Recreation, the agency mandated by Title 73, Chapter 18, to oversee the State Boating Act, clarifies the additional safety equipment required when boating on Utah waters.
4. Summary of the new rule or change:
This rule clarifies the additional safety equipment required when boating on Utah waters.
This rule previously existed under Title R651.

**Fiscal Information**

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There are no anticipated costs or savings to the state budget, this rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

**B) Local governments:**

There are no anticipated costs or savings to the local governments associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

There are no anticipated costs or savings for the small businesses associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

There are no anticipated costs or savings for the small businesses associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

There are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

**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 anticipated compliance costs for affected persons.

This rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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



Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Executive Director of the 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:**

Subsection 73-18-8(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.)

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	01/10/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jason Curry, Director	<b>Date:</b>	10/13/2023
---	-----------------------	--------------	------------

**R650. Natural Resources, Outdoor Recreation.****R650-219. Additional Safety Equipment.****R650-219-1. Sound Producing Device.**

(1) The operator of a vessel that is 12 meters or more in length shall have on board the vessel a whistle that is:

- (a) designed to emit a clear tone;
- (b) capable of a four-to-six-second blast; and
- (c) audible for one-half mile.

(2) The operator of a vessel that is 20 meters or more in length shall, in addition to the whistle required by Subsection (1), have on board the vessel a bell.

(3) The operator of a vessel that is less than 12 meters in length is not required to carry on board the vessel the sound signal devices required by Subsection (1) or Subsection (2) but shall carry on board the vessel some means of making an efficient sound signal.

**R650-219-2. Bailing Device.**

(1) The operator of a vessel that is not of self-bailing design shall have on board the vessel an adequate bail bucket or shall ensure the vessel is equipped with a mechanical means for pumping the bilge.

(2) The operator of a vessel that is 65 feet or greater in length shall ensure the vessel is equipped with a bilge pump for each below deck compartment.

**R650-219-3. Spare Propulsion.**

(1)(a) The operator of a vessel that is less than 21 feet in length shall have on board the vessel at least one spare motor, paddle, or oar capable of maneuvering the vessel.

(b) The operator of a low-capacity vessel that is less than 16 feet in length, and that is traveling on a river in a group may meet the requirements of Subsection (1)(a) by carrying one spare oar, paddle, or paddle designed to be strapped to or worn on the hand for every three vessels in the group.

**R650-219-4. Airboat Requirements.**

A person operating an airboat on the Great Salt Lake and its adjacent refuges shall have on board the vessel a compass and:

- (1) approved flares;
- (2) a strobe light; or
- (3) a visual distress signal.

**R650-219-5. Equipment Good and Serviceable.**

A vessel operator shall ensure all safety equipment carried on board a vessel is in good and serviceable condition and is readily accessible, unless any provision of Title R650 requires the safety equipment to be immediately available.



**R650-219-6. Law Enforcement Vessels.**

Except for an authorized law enforcement or emergency vessel operator, a person operating a vessel on the waters of this state may not:

- (1) display red or blue flashing lights; or
- (2) sound a siren.

**R650-219-7. Equipment Exemptions.**

(1) The requirements of Section R650-219-2 and Section R650-219-3 do not apply to:

- (a) sailboards;
- (b) float tubes;
- (c) standup paddle craft; or
- (d) personal watercraft.

(2)(a) The division may exempt racing vessels participating in sanctioned races from certain equipment requirements upon written request to the division.

(b) If granted by the division, an equipment exemption shall be in effect the day before and the day of the race.

**KEY: boating, life jackets**

**Date of Last Change: 2024**

**Authorizing, and Implemented or Interpreted Law: 73-18-8(6)**

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** New

<b>Rule or Section Number:</b>	<b>R650-220</b>	<b>Filing ID:</b> <b>56096</b>
--------------------------------	-----------------	-----------------------------------

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Outdoor Recreation	
<b>Room number:</b>	100	
<b>Building:</b>	Department of Natural Resources Building	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ty Hunter	801-440-5106	tyhunter@utah.gov
India Nielsen Barfuss	385-268-2570	indianielsen@utah.gov
JC Bailey	801-538-7361	jcbailey@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

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

R650-220. Racing Vessel Exemptions

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

The Division of Outdoor Recreation, the agency mandated by Title 73, Chapter 18, to oversee the State Boating Act, clarifies the exemptions of racing vessels with this rule.

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

This rule clarifies the exemptions of racing vessels.

This rule previously existed under Title R651.

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

There are no anticipated costs or savings to the state budget associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

**B) Local governments:**

There are no anticipated costs or savings to the local governments associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

There are no anticipated costs or savings for the small businesses associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

The proposed rule does not have a fiscal impact on non-small businesses, nor will a service be required of them to implement this rule.

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

There are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

**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 anticipated compliance costs for affected persons.

This rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

**Regulatory Impact Table**

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

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

The Executive Director of the Department of 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:**

Subsection		
73-18-9(5)		

**Public Notice Information**

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jason Curry, Director	<b>Date:</b>	10/13/2023
---	--------------------------	--------------	------------

**R650. Natural Resources, Outdoor Recreation.**

**R650-220. Registration and Numbering Exemptions.**

**R650-220-1. Racing Vessel Exemptions.**

(1)(a) A nonresident owner of a racing vessel that is not required to be registered and numbered in the nonresident's home state is exempt from registering and numbering the racing vessel pursuant to the requirements of this Title R650.

(b) The registration and numbering exemption is valid only at the race site on the day before and the day of a division-authorized race.

**R650-220-2. Sailboard Exemption.**

The owner of a sailboard is exempt from registering and numbering the sailboat pursuant to the requirements of this Title R650.

**KEY: boating**

**Date of Last Change: 2024**

**Authorizing, and Implemented or Interpreted Law: 73-18-9(5)**

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	R650-221	Filing ID: 56097

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Outdoor Recreation	
<b>Room number:</b>	100	
<b>Building:</b>	Department of Natural Resources Building	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ty Hunter	801-440-5106	tyhunter@utah.gov
India Nielsen Barfuss	385-268-2570	indianielsen@utah.gov
JC Bailey	801-538-7361	jcbailey@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

2. Rule or section catchline:
R650-221. Boat Liveries and Boat Rental Companies
3. Purpose of the new rule or reason for the change:
The Division of Outdoor Recreation who is the agency mandated by Title 73, Chapter 18, to oversee the State Boating Act, clarifies the requirements necessary to be registered as a boat livery or rental company.
4. Summary of the new rule or change:
This rule clarifies the requirements necessary to be registered as a boat livery or rental company.
This rule previously existed under Title R651.

**Fiscal Information**

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There are no anticipated costs or savings to the state budget, this rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

**B) Local governments:**

There are no anticipated costs or savings for local governments associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

There are no anticipated costs or savings for small businesses associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

The proposed rule does not have a fiscal impact on non-small businesses, nor will a service be required of them to implement this rule.

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

There are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

**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 anticipated compliance costs for affected persons.

This rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

**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

## NOTICES OF PROPOSED RULES

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

## Citation Information

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Subsection 73-18-10(2)		

## Public Notice Information

<b>8. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
<b>A) Comments will be accepted until:</b>	01/03/2024
<b>9. This rule change MAY become effective on:</b>	01/10/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

## Agency Authorization Information

<b>Agency head or designee and title:</b>	Jason Curry, Director	<b>Date:</b>	10/13/2023
---	-----------------------	--------------	------------

## R650. Natural Resources Outdoor Recreation.

## R650-221. Boat Liveries and Boat Rental Companies.

## R650-221-1. Boat Liveries.

(1) A person who wishes to operate a boat livery shall annually register the livery with the division.

(2) A person shall submit the following to the division to register a boat livery:

(a) a registration application on a form provided by the division;

(b) evidence of a valid business license; and

(c) the applicable boat livery fee.

(3) A person who has registered with the division a boat livery as an outfitting company is not required to pay the boat livery fee required by Subsection (2)(c).

(4) A person may not operate a boat livery unless it has been registered with the division pursuant to Subsection (2).

(5)(a) A boat livery owner shall display the name of the boat livery on the outward superstructure of each vessel in the boat livery's fleet.

(b) If a governmental agency with regulatory authority over a boat livery or a vessel in the boat livery's fleet prohibits the display of a livery's name on the exterior of a vessel in the boat livery's fleet, the boat livery owner shall display the boat livery's name on the vessel in a visible manner that does not violate the agency's requirements.

(6)(a) A boat livery that rents or leases a vessel from its fleet shall do so pursuant to a written rental or lease agreement.

(b) The lease or rental agreement shall:

(i) be signed by the owner of the livery or the owner's representative;

(ii) be signed by the person leasing or renting the vessel;

(iii) list name of the person leasing or renting the vessel;

(iv) list the vessel's assigned bow number, hull identification number, or other number if the vessel is not powered by a motor or sail;

(v) contain a description of the vessel's make, model, color, and length;

(vi) list the period for which the vessel is leased or rented; and

(vii) include a check-off list of the required safety equipment provided on the vessel.

(c) A person renting or leasing a motorboat or sailboat shall carry on board the vessel a copy of the lease or rental agreement.

(7) A person renting or leasing a group of non-motorized vessels is only required to complete one rental agreement pursuant to Subsection (6).

(8) Upon request of the division, the owner of a boat livery, or the owner's representative, shall provide the division with a copy of a lease or rental agreement.

(9) A boat livery may maintain a certificate of registration for a leased or rented vessel on shore.

(10) A recreational equipment timeshare business which leases or rents vessels for consideration is a boat livery.

(11) Each vessel in a boat livery's fleet that is equipped with a 50 hp or greater motor shall be covered with liability insurance as required by Sections 73-18c-101 through 73-18c-308 and Sections 31A-22-1501 through 31A-22-1504.

**KEY: boating****Date of Last Change: 2024****Authorizing, and Implemented or Interpreted Law: 73-18-10(2)****NOTICE OF PROPOSED RULE****TYPE OF FILING:** New

<b>Rule or Section Number:</b>	<b>R650-222</b>	<b>Filing ID:</b> <b>56098</b>
--------------------------------	-----------------	-----------------------------------

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Outdoor Recreation	
<b>Room number:</b>	100	
<b>Building:</b>	Department of Natural Resources Building	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ty Hunter	801-440-5106	tyhunter@utah.gov
India Nielsen Barfuss	385-268-2570	indianielsen@utah.gov
JC Bailey	801-538-7361	jcbailey@utah.gov

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

**General Information**

<b>2. Rule or section catchline:</b>
R650-222. Muffling Requirements
<b>3. Purpose of the new rule or reason for the change:</b>
The Division of Outdoor Recreation, the agency mandated by Title 73, Chapter 18, to oversee the State Boating Act clarifies the requirements for muffling boat engines.
<b>4. Summary of the new rule or change:</b>
This rule clarifies the requirements for muffling boat engines.
This rule previously existed under Title R651.

**Fiscal Information**

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

**A) State budget:**

There are no anticipated costs or savings to the state budget, this rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

**B) Local governments:**

There are no anticipated costs or savings for local governments associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

There are no anticipated costs or savings for small businesses associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

The proposed rule does not have a fiscal impact on non-small businesses, nor will a service be required of them to implement this rule.

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

There are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

**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 anticipated compliance costs for affected persons.

This rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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



Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Executive Director of the 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 73-18-11		
------------------	--	--

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	01/10/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jason Curry, Director	<b>Date:</b>	10/13/2023
---	-----------------------	--------------	------------

**R650. Natural Resources, Outdoor Recreation.****R650-222. Muffling Requirements.****R650-222-1. Mufflers Required.**

A person who operates a motorboat on the waters of this state shall ensure the motorboat is equipped with a muffler or a muffler system that:

- (1) is in good working order;
- (2) is in constant operation when the engine is running; and
- (3) is effectively installed to prevent any excessive or unusual engine noise.

**R650-222-2. Muffler Defined.**

"Muffler" means a sound suppression device or system designed and installed to abate the sound of exhaust gases emitted from an internal combustion engine and that prevents excessive or unusual noise.

**R650-222-3. Maximum Sound Level SAE J2005.**

A person may not operate, or give permission for the operation of, any motorboat upon the waters of this state in such a manner as to exceed the following noise levels:

- (1) for engines manufactured before January 1, 1993, a noise level of 90dB(A) when subjected to a stationary sound level test as prescribed by Society of Automotive Engineers test SAE J2005; and
- (2) for engines manufactured on or after January 1, 1993, a noise level of 88dB(A) when subjected to a stationary sound level test as prescribed by Society of Automotive Engineers test SAE J2005.

**R650-222-4. Maximum Sound Level SAE J1970.**

Except when produced because of a stationary sound level test as prescribed by Society of Automotive Engineers test SAE J2005, a person may not operate a motorboat on the waters of this state in such a manner as to exceed a noise level of 75dB(A) when measured as specified in Society of Automotive Engineers test SAE J1970.

**R650-222-5. Muffler Bypass or Alteration Prohibited.**

(1) A person may not operate, or give permission for the operation of, any motorboat upon the waters of this state that is equipped with:

- (a) an altered muffler;
- (b) a muffler cutout;
- (c) a muffler bypass; or
- (d) another device designed or installed such that it can be used to bypass the muffler continuously or intermittently or can be used to reduce or eliminate the effectiveness of any muffler or muffler system.



(2) The restrictions imposed by Subsection R650-222-5(1) do not apply to a person who:

(a) permanently disconnects or makes inoperable a mechanism listed in Subsections (1)(a) through (d); or

(b) operates a motorboat that has installed a mechanism listed in Subsections (1)(a) through (d) within the noise level restrictions imposed by Section R650-222-3.

#### **R650-222-6. Muffler Removal Prohibited.**

A person may not remove, alter, or otherwise modify in any way, a muffler or muffler system on a motorboat in a manner that will prevent compliance with Section R650-222-3.

#### **R650-222-7. Mufflers Required on Motorboats Sold.**

(1) A person may not manufacture, sell, or offer for sale any motorboat:

(a) that is not equipped with a muffler or muffler system; or

(b) that does not comply with Section R650-222-3.

(2) Notwithstanding the restrictions set out in Subsection (1), a person may manufacture, sell, or offer for sale a motorboat that is not equipped with a muffler or muffler system, or that does not comply with the noise level restrictions set out in Section R650-222-3, if the motorboat is designed, manufactured, and sold for the sole purpose of competing in racing events only and for no other purpose and if:

(a) the buyer and seller sign a sales agreement that acknowledges the boat is sold for the sole purpose of competing in racing events;

(b) the buyer and seller each maintain a copy of the sales agreement;

(c) the buyer keeps copy of the sales agreement on board the motorboat when the motorboat is operated; and

(d) the buyer ensures the motorboat is operated only on the waters of this state and in accordance with Section R650-222-8.

#### **R650-222-8. Muffler Exemptions.**

An owner of a motorboat is not required to comply with the requirements of Sections R650-222-3 through R650-222-6 if the motorboat is:

(1) registered for and participating in a racing event authorized by the division;

(2) participating in scheduled racing tune-up periods before the authorized racing event; or

(3) is operated by a boat or engine manufacturer for testing or development when the testing or development is authorized by the division.

#### **R650-222-9. Enforcement.**

(1) A peace officer who has reason to believe the noise level produced by an operating motorboat exceeds the noise level restrictions set out in Section R650-222-3 may direct the operator of the motorboat to submit the motorboat to an on-site test to measure the produced noise level.

(2) If the motorboat exceeds the established decibel level, and in addition to issuing a summons, the peace officer may:

(a) direct the operator to return to the point of embarkation; and

(b) prohibit operation of the motorboat until the motorboat meets the established decibel level.

#### **KEY: boating, motorboat noise**

**Date of Last Change: 2024**

**Authorizing, and Implemented or Interpreted Law: 73-18-11**

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

**TYPE OF FILING:** New

<b>Rule or Section Number:</b>	<b>R650-223</b>	<b>Filing ID:</b> <b>56104</b>
--------------------------------	-----------------	-----------------------------------

#### **Agency Information**

<b>1. Department:</b>	Natural Resources
<b>Agency:</b>	Outdoor Recreation
<b>Room number:</b>	100
<b>Building:</b>	Department of Natural Resources Building
<b>Street address:</b>	1594 W North Temple
<b>City, state and zip:</b>	Salt Lake City, UT 84116

#### **Contact persons:**

<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ty Hunter	801-440-5106	tyhunter@utah.gov
India Nielsen Barfuss	385-268-2570	indianielsen@utah.gov
JC Bailey	801-538-7361	jcbailey@utah.gov

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

#### **General Information**

##### **2. Rule or section catchline:**

R650-223. Vessel Accident Reporting

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

The Division of Outdoor Recreation, the agency mandated by Title 73, Chapter 18, to oversee the State Boating Act, clarifies the requirements for reporting vessel accidents.

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

This rule clarifies the requirements for reporting vessel accidents.

This rule previously existed under Title R651.

#### **Fiscal Information**

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

**A) State budget:**

There are no anticipated costs or savings to the state budget, this rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

**B) Local governments:**

There are no anticipated costs or savings for local governments associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

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

There are no anticipated costs or savings for small businesses associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

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

The proposed rule does not have a fiscal impact on non-small businesses, nor will a service be required of them to implement this rule.

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

There are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

**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 anticipated compliance costs for affected persons.

This rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

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

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

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

The Executive Director of the Department of 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 73-18-13

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

**A) Comments will be accepted until:** 01/03/2024

<b>9. This rule change MAY become effective on:</b>	01/10/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jason Curry, Director	<b>Date:</b>	10/13/2023
---	--------------------------	--------------	------------

**R650. Natural Resources, Outdoor Recreation.****R650-223. Vessel Accident Reporting.****R650-223-1. Notification Required.**

(1) A vessel operator shall immediately, and by the quickest means of communication available, notify the nearest state park ranger or other law enforcement officer of an accident that involves a vessel or a vessel's equipment if because of the accident:

(a) a person dies or disappears from a vessel under circumstances that indicate death;

(b) a person is injured and receives medical treatment beyond first aid; or

(c) the accident results in property damage of more than \$2,000.

(2) The person making the notification required by Subsection (1) shall include in the notification:

(a) the date, time, and location of the accident;

(b) the name of each person who died or disappeared because of the accident;

(c) the assigned number of any vessel involved in the accident; and

(d) the name and address of the owner and operator of any vessel involved in the accident.

**R650-223-2. Other Notification.**

If a vessel operator cannot provide the notification required by Section R650-223-1, another person on board the operator's vessel may make the notification.

**R650-223-3. Report Required.**

An owner, operator, or other person on board a vessel involved in an accident shall submit a completed and signed Owner/Operator Boating Accident Report (PR-53A) to the division within 10 days of any accident.

**KEY: accidents, boating**

**Date of Last Change: 2024**

**Authorizing, and Implemented or Interpreted Law: 73-18-13**

NOTICE OF PROPOSED RULE		
<b>TYPE OF FILING:</b> New		
<b>Rule or Section Number:</b>	<b>R650-224</b>	<b>Filing ID:</b> <b>56100</b>

**Agency Information**

<b>1. Department:</b>	Natural Resources
<b>Agency:</b>	Outdoor Recreation

<b>Room number:</b>	100	
<b>Building:</b>	Department of Natural Resources Building	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ty Hunter	801-440-5106	tyhunter@utah.gov
India Nielsen Barfuss	385-268-2570	indianielsen@utah.gov
JC Bailey	801-538-7361	jcbailey@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R650-224. Towed Devices
<b>3. Purpose of the new rule or reason for the change:</b>
The Division of Outdoor Recreation, the agency mandated by Title, 73, Chapter 18, to oversee the State Boating Act, clarifies the requirements for towing on Utah bodies of water.
<b>4. Summary of the new rule or change:</b>
This rule clarifies the requirements for towing on Utah bodies of water.
This rule previously existed under Title R651.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There are no anticipated costs or savings to the state budget, this rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.
<b>B) Local governments:</b>
There are no anticipated costs or savings for local governments associated with this rule.
The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

There are no anticipated costs or savings for small businesses associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

The proposed rule does not have a fiscal impact on non-small businesses, nor will a service be required of them to implement this rule.

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

There are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

**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 anticipated compliance costs for affected persons.

This rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

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

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

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

The Executive Director of the Department of 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 73-18-15		
------------------	--	--

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jason Curry, Director	<b>Date:</b>	10/13/2023
---	--------------------------	--------------	------------

**R650. Natural Resources, Outdoor Recreation.****R650-224. Towed Devices.****R650-224-1. Course and Observer Requirements.**

(1) The operator of a vessel towing a person on water skis, or another towed device shall maintain a safe course with proper lookout.

(2) Except as provided in Section 73-18-16, an observer who is not the operator shall:

(a) observe the person being towed; and

(b) report the progress of the person being towed to the vessel's operator.

**R650-224-2. Unlawful Methods of Towing.**

(1) A person may not, while a person is occupying or holding onto the swim platform, swim deck, swim step, or swim ladder of a motorboat, or while a person is being towed in a non-standing position within 20 feet of a motorboat:

(a) operate the motorboat; or

(b) allow the engine of the motorboat to run idle.

(2) The restrictions set out in Subsection (1) do not apply when a person is occupying the swim platform, swim deck, swim step, or swim ladder while:

(a) assisting with the docking or departure of the motorboat;

(b) exiting or entering the motorboat to or from the dock; or

(c) a motorboat is engaged in a law enforcement activity.

**R650-224-3. Flag Required.**

(1) Except as provided in Section 73-18-16, the operator of a vessel engaged in a towed watersport shall ensure an observer displays a flag in a visible manner such that other boaters in the area may determine a person:

(a) being towed is in the water; or

(b) is either preparing to be towed or is finishing being towed.

(2) The flag required by Subsection (1) shall be:

(a) colored international orange;

(b) at least 12 inches square; and

(c) mounted on a handle.

**R650-224-4. PFD to be Worn.**

(1) Except as provided in Section 73-18-16, the operator of a vessel towing a person on water skis or other devices shall require the person under tow to wear an approved PFD.

(2) An inflatable PFD does not meet the requirements of Subsection (1).

**R650-224-5. Capacity of Towing Vessel.**

The operator of a vessel towing a person or persons on water skis or other devices shall use a vessel with sufficient carrying capacity, as defined by the vessel's manufacturer, for the vessel's onboard occupants and the person or persons being towed.

**R650-224-6. No Towing in Marinas.**

The operator of a vessel may not tow a person in or on any towed device within a wakeless area surrounding a developed marina or launch ramp.

**KEY: boating, water skiing**

**Date of Last Change: 2024**

**Authorizing, and Implemented or Interpreted Law: 73-18-15**

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** New

**Rule or Section Number:**

**R650-226**

**Filing ID:**  
**56101**

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Outdoor Recreation	
<b>Room number:</b>	100	
<b>Building:</b>	Department of Natural Resources Building	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ty Hunter	801-440-5106	tyhunter@utah.gov
India Nielsen Barfuss	385-268-2570	indianielsen@utah.gov
JC Bailey	801-538-7361	jcbaily@utah.gov

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

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

R650-226. Regattas and Races

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

The Division of Outdoor Recreation, the agency mandated by Title 73, Chapter 18, to oversee the State Boating Act, clarifies the requirements for regattas and races on Utah bodies of water.

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

This rule clarifies the requirements for regattas and races on Utah bodies of water.

This rule previously existed under Title R651.

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

There are no anticipated costs or savings to the state budget, this rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.



**B) Local governments:**

There are no anticipated costs or savings for local governments associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

There are no anticipated costs or savings for small businesses associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

The proposed rule does not have a fiscal impact on non-small businesses, nor will a service be required of them to implement this rule.

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

There are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

**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 anticipated compliance costs for affected persons.

This rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the substantive content is unaltered.

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

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0

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

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

The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.

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

Section 73-18-16		
------------------	--	--

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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



**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jason Curry, Director	<b>Date:</b>	10/13/2023
---	--------------------------	--------------	------------

**R650. Natural Resources, Outdoor Recreation.****R650-226. Regattas and Races.****R650-226-1. Authorization To Hold a Marine Event.**

Before holding a marine event, a person shall obtain authorization to hold the marine event from:

- (1) the division; and
- (2) any person or agency who owns or administers the land adjacent to the marine event.

**R650-226-2. Human-Powered Marine Events and Safety Vessels.**

(1) A person responsible for a permanent, long-term, or short-term human-powered marine event shall obtain permission to hold the event from the agency managing the waterway where the event will be held.

(2) A person may use a designated safety vessel associated with a permanent, long-term, or short-term human-powered marine event:

- (a) on any waterway zoned by the division as wakeless;
- (b) on any waterway zoned as motor restricted; and
- (c) within any area marked by waterway markers as a controlled area.

(3) A person responsible for a permanent, long-term, or short-term human-powered marine event shall ensure any safety vessel used at the event is:

- (a) designed and operated to create a minimal wake;
- (b) operated by representatives of the person responsible for the event; and
- (c) operated only for the coaching, support, and safety of the event.

**KEY: boating****Date of Last Change: 2024****Authorizing, and Implemented or Interpreted Law: 73-18-16****NOTICE OF PROPOSED RULE****TYPE OF FILING:** New

<b>Rule or Section Number:</b>	<b>R650-227</b>	<b>Filing ID:</b> <b>56102</b>
--------------------------------	-----------------	-----------------------------------

**Agency Information**

<b>1. Department:</b>	Natural Resources
<b>Agency:</b>	Outdoor Recreation
<b>Room number:</b>	100
<b>Building:</b>	Department of Natural Resources Building
<b>Street address:</b>	1594 W North Temple
<b>City, state and zip:</b>	Salt Lake City, UT 84116

**Contact persons:**

<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ty Hunter	801-440-5106	tyhunter@utah.gov
India Nielsen Barfuss	385-268-2570	indianielsen@utah.gov
JC Bailey	801-538-7361	jcbailey@utah.gov

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

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

R650-227. Swimming

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

The Division of Outdoor Recreation who is the agency mandated by Title 73, Chapter 18, to oversee the State Boating Act, clarifies the requirements and restrictions for swimming in Utah bodies of water.

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

This rule clarifies the requirements and restrictions for swimming in Utah bodies of water.

This rule previously existed under Title R651.

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

There are no anticipated costs or savings to the state budget, this rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

**B) Local governments:**

There are no anticipated costs or savings for local governments associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

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

There are no anticipated costs or savings for small businesses associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

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

The proposed rule does not have a fiscal impact on non-small businesses, nor will a service be required of them to implement this rule.

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

There are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

**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 anticipated compliance costs for affected persons.

This rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

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

**Regulatory Impact Table**

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

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

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

The Executive Director of the Department of 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 79-4-501

**Public Notice Information**

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

**Agency head or designee and title:** Jason Curry, Director  
**Date:** 10/13/2023

**R650. Natural Resources, Outdoor Recreation.**

**R650-227. Swimming.**

**R650-227-1. Swimming Prohibited.**

A person may not engage in a swimming activity:

- (1) in a designated "No Swimming" area;
- (2) in a vessel launching, docking, mooring, or harbor area;
- (3) in or near spillways or outlets;
- (4) in an area the division has posted as closed to swimming; or

(5) in an area where an individual or entity acting with public health authority has posted as closed to swimming due to public health concerns.

**R650-227-2. Causey Reservoir.**

A person shall wear a PFD when swimming or boating at Causey Reservoir.

**KEY: swimming, boating**

**Date of Last Change: 2024**

**Authorizing, and Implemented or Interpreted Law: 79-4-501**

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** New

<b>Rule or Section Number:</b>	<b>R650-228</b>	<b>Filing ID:</b> <b>56103</b>
--------------------------------	-----------------	-----------------------------------

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Outdoor Recreation	
<b>Room number:</b>	100	
<b>Building:</b>	Department of Natural Resources Building	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ty Hunter	801-440-5106	tyhunter@utah.gov
India Nielsen Barfuss	385-268-2570	indianielsen@utah.gov
JC Bailey	801-538-7361	jcbailey@utah.gov

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

**General Information**

**2. Rule or section catchline:**

R650-228. Scuba Diving

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

The Division of Outdoor Recreation, the agency mandated by Title 73, Chapter 18, to oversee the State Boating Act, clarifies the requirements and restrictions for scuba diving on Utah bodies of water.

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

This rule clarifies the requirements and restrictions for scuba diving on Utah bodies of water.

This rule previously existed under Title R651.

**Fiscal Information**

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

**A) State budget:**

There are no anticipated costs or savings to the state budget, this rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

**B) Local governments:**

There are no anticipated costs or savings for local governments associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

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

There are no anticipated costs or savings for small businesses associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

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

The proposed rule does not have a fiscal impact on non-small businesses, nor will a service be required of them to implement this rule.

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

There are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities associated with this rule.

The rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

**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 anticipated compliance costs for affected persons.

## NOTICES OF PROPOSED RULES

This rule existed prior to the separation of the Division of Outdoor Recreation and Utah State Parks, and the content is unaltered.

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

**Regulatory Impact Table**

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

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

The Executive Director of the Department of 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 73-18b-1		
------------------	--	--

**Public Notice Information**

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jason Curry, Director	<b>Date:</b>	10/13/2023
---	--------------------------	--------------	------------

**R650. Natural Resources, Outdoor Recreation.****R650-228. Scuba Diving.****R650-228-1. Rules And Restrictions.**

- (1) A scuba diver shall:
- (a) display a diver's flag prior to engaging in a diving activity; and
- (b) dive and surface in proximity to the flag.
- (2) A person may not place a diver's flag on the waters of this state unless a diving activity is in progress in that area.
- (3) A person placing a diver's flag after sunset or before sunrise shall ensure the flag is lit.
- (4) A person may not place a diver's flag in any area where it might restrict boating activity.
- (5) A scuba diver may not dive in a congested boating or fishing area, including narrow channels, launching, or docking areas, or near reservoir outlets.
- (6) A person may not scuba dive in any waters of this state unless the person holds a valid certificate from an accredited scuba diving school or is in the company of a certified scuba diving instructor.

**KEY:** water safety rules

**Date of Last Change:** 2024

**Authorizing, and Implemented or Interpreted Law:** 73-18b-1

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** New

<b>Rule or Section Number:</b>	<b>R650-401</b>	<b>Filing ID:</b>	<b>56108</b>
--------------------------------	-----------------	-------------------	--------------

**Agency Information**

<b>1. Department:</b>	Natural Resources
<b>Agency:</b>	Outdoor Recreation
<b>Street address:</b>	1594 W North Temple, Suite 100
<b>City, state and zip:</b>	Salt Lake City, UT 84116

Contact persons:		
Name:	Phone:	Email:
Chase Pili	801-707-5359	cpili@utah.gov
JC Bailey	801-538-7361	Jcbailey@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

### General Information

2. Rule or section catchline:
R650-401. Off-Highway Vehicle and Registration Stickers
3. Purpose of the new rule or reason for the change:
Section 41-22-5.1 provides that the Division of Outdoor Recreation (Division) shall make rules for the display of an off-highway license plate and registration decal on an off-highway vehicle in accordance with Section 41-22-3.
4. Summary of the new rule or change:
This rule governs the display of off-highway vehicle license plates and registration decals.
This rule previously existed under Title R651.

### 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 instructional in nature and will have no impact on how the Division 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.
This rule change only sets out requirement for displays of OHV license plates and registration decals.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule change is not expected to have a fiscal impact on small businesses' revenues or expenditures.
This rule change only sets out requirement for displays of OHV license plates and registration decals.

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

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

This rule change only sets out requirement for displays of OHV license plates and registration decals.

**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 a fiscal impact on persons other than small businesses', non-small businesses', state, or local government entities' revenues or expenditures.

This rule change only sets out requirement for displays of OHV license plates and registration decals.

**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 provide instructions on how to display OHV license plates and registration decals.

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

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

## NOTICES OF PROPOSED RULES

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

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

The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.

#### Citation Information

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

Subsection 41-22-3(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.)

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	01/10/2024
---	------------

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

#### Agency Authorization Information

<b>Agency head or designee and title:</b>	Jason Curry, Director	<b>Date:</b>	10/23/2024
---	--------------------------	--------------	------------

#### R650. Natural Resources, Outdoor Recreation.

##### R650-401. Off-Highway Vehicle and Registration Stickers.

##### R650-401-1. Mounting Stickers.

(1) An off-highway vehicle owner shall mount an annual off-highway vehicle registration sticker issued by the Division of Motor Vehicles in a visible location on the off-highway vehicle for which the sticker is issued.

(2) On snowmobiles, an off-highway vehicle owner shall mount an off-highway vehicle registration sticker on the left side of the hood, tunnel, or pan.

(3) On motorcycles, an off-highway owner shall mount an off-highway vehicle registration sticker on the left fork of the motorcycle or on the left-side body plastic.

(4) On all-terrain type I and type II vehicles, an off-highway vehicle owner shall mount an off-highway vehicle registration sticker on the vehicle pursuant to the requirements of Rule R650-413.

#### KEY: off-highway vehicles

Date of Last Change: 2024

Authorizing, and Implemented or Interpreted Law: 41-22-3(4)

#### NOTICE OF PROPOSED RULE

**TYPE OF FILING:** New

<b>Rule or Section Number:</b>	<b>R650-405</b>	<b>Filing ID:</b> <b>56109</b>
--------------------------------	-----------------	-----------------------------------

#### Agency Information

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Outdoor Recreation	
<b>Street address:</b>	1594 W North Temple, Suite 100	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chase Pili	801-707-5359	cpili@utah.gov

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

#### General Information

<b>2. Rule or section catchline:</b>
R650-405. Off-Highway Implement of Husbandry Sticker Fee
<b>3. Purpose of the new rule or reason for the change:</b>
Section 41-22-5.1 provides that the Division of Outdoor Recreation (Division) shall make rules for the display of an off-highway license plate and registration decal on an off-highway vehicle in accordance with Section 41-22-3.
<b>4. Summary of the new rule or change:</b>
This rule governs the display of off-highway vehicle license plates and registration decals.
This rule previously existed under Title R651.

#### 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 instructional in nature and will have no impact on how the Division 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.

This rule change only sets out requirement for displays of OHV license plates and registration decals.

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

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

This rule change only sets out requirement for displays of OHV license plates and registration decals.

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

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

This rule change only sets out requirement for displays of OHV license plates and registration decals.

**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 a fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities revenues or expenditures.

This rule change only sets out requirement for displays of OHV license plates and registration decals.

**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 provide instructions on how to display OHV license plates and registration decals.

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

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

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

The Executive Director of the Department of 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:**

Subsection 41-22-5.5(1)		
----------------------------	--	--

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

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	01/10/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jason Curry, Director	<b>Date:</b>	10/23/2023
---	--------------------------	--------------	------------

**R650. Natural Resources, Outdoor Recreation.****R650-405. Off-Highway Implement of Husbandry Stickers.****R650-405-1. Off-Highway Implement of Husbandry Sticker Display.**

The owner of an off highway implement of husbandry vehicle shall permanently affix an implement of husbandry sticker issued by the division in a visible location on the vehicle for which the sticker is issued.

**KEY: off-highway vehicles****Date of Last Change: 2024****Authorizing, and Implemented or Interpreted Law: 41-22-5.5(1)****NOTICE OF PROPOSED RULE****TYPE OF FILING:** New

<b>Rule or Section Number:</b>	<b>R650-410</b>	<b>Filing ID:</b> <b>56110</b>
--------------------------------	-----------------	-----------------------------------

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Outdoor Recreation	
<b>Street address:</b>	1594 W North Temple, Suite 100	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chase Pili	801-707-5359	cpili@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R650-410. Off-Highway Vehicle Safety Equipment
<b>3. Purpose of the new rule or reason for the change:</b>
Section 41-22-31 provides that the Division of Outdoor Recreation (Division) shall make rules pertaining to OHV safety equipment.

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

This rule governs requirements concerning OHV safety equipment.

This rule previously existed under Title R651.

**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 instructional in nature and will have no impact on how the Division 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.

This rule change only sets out requirement for OHV safety equipment.

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

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

This rule change only sets out requirement for OHV safety equipment.

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

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

This rule change only sets out requirements for OHV safety equipment.

**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 a fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities' revenues or expenditures.

This rule change only sets out requirements for OHV safety equipment.

**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 provide instructions on the requirements for OHV safety equipment.

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

**Regulatory Impact Table**

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

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

The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.

**Citation Information**

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

Section 41-22-31	Section 41-22-33	Section 41-22-32
------------------	------------------	------------------

**Public Notice Information**

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jason Curry, Director	<b>Date:</b>	10/23/2023
---	--------------------------	--------------	------------

**R650. Natural Resources, Outdoor Recreation.**

**R650-410. Off-Highway Vehicle Safety Equipment.**

**R650-410-1. Safety Flags Required on Designated Sand Dunes.**

(1) A vehicle operator shall mount safety flags that meet the requirements of Section 41-22-10.7 to an off-highway vehicle operating at:

- (a) Coral Pink Sand Dunes State Park;
- (b) Big Sand Mountain Recreation Management Area; or
- (c) Little Sahara Special Recreation Management Area.

(2) As used in this rule:

(a) Coral Pink Sand Dunes State Park means the area bounded by the following metes and bounds: Beginning at the junction of Hancock Road and Sand Springs Road, Then west along Hancock Road to Yellowjacket Road, Then south along Yellowjacket Road to Coral Pink Sand Dunes State Park South Boundary Road, Then south along the South Boundary Road to the Utah-Arizona state line, Then east along the Utah-Arizona state line to the east side of Moquith Mountain, Then north along the east side of Moquith Mountain to Sand Springs Road, Then north along Sand Springs Road to the beginning.

(b) Big Sand Mountain Special Recreation Management Area, which consists of sand dunes located within Washington County, means the area bounded by the following metes and bounds: Starting at the intersection of the county-maintained Washington Dam Road and the main jeep road that runs east of and parallel to Warner Ridge, Then south along the main jeep road to its intersection with the Warner Valley Road, Then south and east along the Warner Valley Road to its intersection with the Hurricane Cliffs Road, Then north along the Hurricane Cliffs Road to the north township line of Township 43 South, Salt Lake Meridian, Then west along the township line and public land boundary to the southeast corner of Section 31, Township 42 South, Range 13 West, Salt Lake Meridian, Then north along the section line and thereafter following the boundary of the proposed Sand Hollow Recreation Area to the principal OHV access road off the northwest corner of the recreation area, Then northwest along the principal OHV access road to the Washington Dam Road, then west along the Washington Dam Road to the beginning.

## NOTICES OF PROPOSED RULES

(c) Little Sahara Special Recreation Management Area, which consists of sand dunes located within Juab County, means the area within the fenced boundary of the Little Sahara Recreation Area.

**KEY: off-highway vehicles**

**Date of Last Change: 2024**

**Authorizing, and Implemented or Interpreted Law: 41-22-31; 41-22-32; 41-22-33**

### NOTICE OF PROPOSED RULE

**TYPE OF FILING:** New

<b>Rule or Section Number:</b>	<b>R650-412</b>	<b>Filing ID:</b> <b>56112</b>
--------------------------------	-----------------	-----------------------------------

### Agency Information

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Outdoor Recreation	
<b>Street address:</b>	1594 W North Temple, Suite 100	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chase Pili	801-707-5359	cpili@utah.gov

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

### General Information

<b>2. Rule or section catchline:</b>
R650-412. Curriculum Standards for OHV Education Programs Offered by Non-Division Entities
<b>3. Purpose of the new rule or reason for the change:</b>
Section 41-22-30 provides that the Division of Outdoor Recreation (Division) shall make rules pertaining to the supervision, safety, certificate, and education programs for OHV operators under the age of 18.
<b>4. Summary of the new rule or change:</b>
This rule governs the education programs of off-highway vehicles offered by non-division entities.
This rule previously existed under Title R651.

### Fiscal Information

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There is no anticipated cost or savings to the state budget, as this rule is instructional in nature and will have no

impact on how the Division 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.

This rule change only sets out requirements for OHV education programs.

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

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

This rule change only sets out requirement for displays of OHV education programs.

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

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

This rule change only sets out requirement for displays of OHV education programs.

### 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 a fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities revenue or expenditures.

This rule change only sets out requirements for OHV education programs.

### 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 provide instructions on OHV education programs.

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

Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0

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

**Citation Information**

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Section 41-22-30	Section 41-22-31	

**Public Notice Information**

<b>8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)</b>	
<b>A) Comments will be accepted until:</b>	01/03/2024
<b>9. This rule change MAY become effective on:</b>	01/10/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jason Curry, Director	<b>Date:</b>	10/23/2023
---	--------------------------	--------------	------------

**R650. Natural Resources, Outdoor Recreation.****R650-412. Curriculum Standards for OHV Education Programs Offered by Non-Division Entities.****R650-412-1. Course Approval Process.**

(1)(a) Providers wishing to offer OHV safety and education courses shall submit a copy of the provider's proposed course curricula to the division for the division's evaluation.

(b) The division shall:

(i) evaluate the proposed course curricula against the standard set out in Section R650-412-3; and

(ii) approve a course with curricula that meet the standard.

**R650-412-2. Course Completion.**

Pursuant to Section 41-22-31, a provider shall issue an OHV Education Certificate to individuals who complete a safety and education course approved by the division pursuant to this rule.

**R650-412-3. Curriculum Standards.**

(1) The division may approve an OHV safety and education course if the course, at a minimum, provides instruction on:

(a) a description of OHV riding in Utah;

(b) an overview of the Division's OHV regulatory responsibilities;

(c) the meaning of OHV terminology, including throttle, fuel shut-off valve, brakes, gear shift, engine stop switch, choke, spark arrestor/muffler, headlights, engine, footrest, ignition switch, and other operational components integral to the safe operation of an OHV;

(d) Utah laws applicable to the operation of OHVs;

(e) riding positions, turning, and stopping;

(f) hypothermia, wind chill, and cold weather survival;

(g) riding on different types of terrain;

(h) pre-ride inspections;

(i) loading a trailer;

(j) crossing roads and highways;

(k) dangers of operating an OHV under the influence of drugs and alcohol;

(l) ethics, responsible riding, and trail etiquette;

(m) Tread Lightly;

(n) proper safety equipment; and

(o) where applicable, information on the operation of snowmobiles, and instruction on avalanche safety.

(2) A course provider shall present an OHV safety and education course at a level appropriate for the average fourth grade student.

**KEY: OHV education standards**

**Date of Last Change: 2024**

**Authorizing, and Implemented or Interpreted Law: 41-22-30; 41-22-31**



**NOTICE OF PROPOSED RULE****TYPE OF FILING:** Repeal**Rule or Section Number:** R651-201**Filing ID:** 56132**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	State Parks	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R651-201. Definitions
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is moving to the Division of Outdoor Recreation.
<b>4. Summary of the new rule or change:</b>
This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The repeal of this rule does not affect the state budget.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
<b>B) Local governments:</b>
The repeal of this rule does not affect local governments.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
The repeal of this rule does not affect small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

**Regulatory Impact Table**

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



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

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

The Executive Director of the Department of 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:**

Title 73, Chapter 18		
-------------------------	--	--

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	01/10/2024
---	------------

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	-----------------------------	--------------	------------

**R651. Natural Resources, Parks and Recreation.**

**[R651-201. Definitions.**

**R651-201-1. Approved.**

"Approved" means approved by the commandant of the United States Coast Guard, unless the context clearly requires a different meaning. For carburetor backfire flame control devices "approved" means the device is marked with one of the following: a U.S. Coast Guard approval number; complies with Underwriters Laboratory test UL 1111; or complies with the Society of Automotive Engineers test SAE J 1928.

**~~R651-201-2. Sailboard.~~**

~~"Sailboard" means a wind-propelled vessel with a mast and sail that are held up by the operator who stands while operating the vessel.~~

**~~R651-201-3. Good and Serviceable Condition.~~**

~~(1) "Good and Serviceable condition" means any required equipment must be in proper operating condition; and~~

~~(a) Required labels and markings shall be intact and legible;~~

~~(b) Required equipment shall not be stored inside original packaging; and~~

~~(c) A PFD is considered to be in serviceable condition only if the following conditions are met:~~

~~(i) No PFD may exhibit deterioration that could diminish the performance of the PFD, including metal or plastic hardware used to secure the PFD on the wearer that is broken, deformed, or weakened by corrosion; webbings or straps used to secure the PFD on the wearer that are ripped, torn or which have become separated from an attachment point on the PFD; or any other rotted or deteriorated structural component that fails when tugged.~~

~~(ii) In addition to meeting the requirements of paragraph (i) of this section, no inherently buoyant PFD, including the inherently buoyant components of a hybrid inflatable PFD, may exhibit rips, tears, or open seams in fabric or coatings, that are large enough to allow the loss of buoyant material; buoyant material that has become hardened, non resilient, permanently compressed, waterlogged, oil soaked, or which show evidence of fungus or mildew; or loss of buoyant material or buoyant material that is not securely held in position.~~

~~(iii) In addition to meeting the requirements of paragraph (i) of this section, an inflatable PFD, including the inflatable components of a hybrid inflatable PFD, must be equipped with a properly armed inflation mechanism, complete with a full inflation medium cartridge and all status indicators showing that the inflation mechanism is properly armed, except as provided in paragraph (iv) of this section; inflatable chambers that are all capable of holding air; oral inflation tubes that are not blocked, detached or broken; a manual inflation lanyard or lever that is not inaccessible, broken or missing; and, inflator status indicators that are not broken or otherwise non-functional.~~

~~(iv) The inflation system of an inflatable PFD need not be armed when the PFD is worn inflated and otherwise meets the requirements of paragraphs (i) and (iii) of this section.~~

**~~R651-201-4. Immediately Available.~~**

~~"Immediately available" means stored in plain and open view in the area where it will be used; not obstructed, blocked or covered in any way and capable of being quickly deployed.~~

**~~R651-201-5. Readily Accessible.~~**

~~"Readily Accessible" means easily located and retrieved without searching, delay or hindrance.~~

**~~R651-201-6. Tow(ed)(ing).~~**

~~When used in watersports, "tow(ed)(ing)" means a person(s) who is being pulled behind a vessel either on a device and attached to the vessel or has been pulled behind the vessel, is not currently attached and is surfing or riding the wake created by the vessel.~~

## NOTICES OF PROPOSED RULES

### ~~R651-201-7. Low Capacity Vessel.~~

~~Low Capacity Vessel means a manually propelled vessel designed or intended to carry no more than two occupants.~~

~~KEY: boating, parks~~

~~Date of Last Change: July 23, 2012~~

~~Notice of Continuation: January 5, 2021~~

~~Authorizing, and Implemented or Interpreted Law: 73-18]~~

### NOTICE OF PROPOSED RULE

**TYPE OF FILING:** Repeal

<b>Rule or Section Number:</b>	<b>R651-202</b>	<b>Filing ID:</b> <b>56133</b>
--------------------------------	-----------------	-----------------------------------

### Agency Information

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	State Parks	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

### General Information

<b>2. Rule or section catchline:</b>
R651-202. Boating Advisory Council
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is moving to the Division of Outdoor Recreation.
<b>4. Summary of the new rule or change:</b>
This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

### Fiscal Information

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The repeal of this rule does not affect the state budget.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

### B) Local governments:

The repeal of this rule does not affect local governments.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

#### Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

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

**Citation Information**

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Section 73-18-3.5		

**Public Notice Information**

<b>8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)</b>	
<b>A) Comments will be accepted until:</b>	01/03/2024

<b>9. This rule change MAY become effective on:</b>	01/10/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	--------------------------	--------------	------------

**R651. Natural Resources, Parks and Recreation.**~~**[R651-202. Boating Advisory Council.]**~~~~**R651-202-1. Boating Advisory Council.**~~

~~A Boating Advisory Council, consisting of nine members, has been appointed by the board to represent boaters and others in boating matters. There is one member from each of the following interests: Boating safety and education organizations, sailing users, boating anglers, marine dealers, personal watercraft users, outfitting companies, paddle craft users, water sports users and motorboat users.~~

~~**KEY: boating**~~~~**Date of Last Change: October 27, 2009**~~~~**Notice of Continuation: January 5, 2021**~~~~**Authorizing, and Implemented or Interpreted Law: 73-18-3.5]**~~**NOTICE OF PROPOSED RULE****TYPE OF FILING:** Repeal

<b>Rule or Section Number:</b>	<b>R651-203</b>	<b>Filing ID:</b> <b>56134</b>
--------------------------------	-----------------	-----------------------------------

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	State Parks	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R651-203. Waterway Marking System
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is moving to the Division of Outdoor Recreation.
<b>4. Summary of the new rule or change:</b>
This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
--

**A) State budget:**

The repeal of this rule does not affect the state budget.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

**B) Local governments:**

The repeal of this rule does not affect local governments.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

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

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

The Executive Director of the Department of 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:**

Subsection 73-18-4(1)		
--------------------------	--	--

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

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	01/10/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	-----------------------------	--------------	------------

**R651. Natural Resources, Parks and Recreation.****[R651-203. Waterway Marking System.****R651-203-1. Regulatory Markers.**

~~An orange cross within an orange diamond, on end, means: "Boats Keep Out."~~

~~An orange circle means: "Controlled Area."~~

~~An orange diamond, on end, without a cross means: "Danger."~~

~~An orange square or rectangle: "Provides Information."~~

~~(1) The following regulatory symbols shall be international orange on a white background, and descriptive wording within or accompanying the regulatory symbols shall be in black letters.~~

~~(2) When the regulatory symbols are displayed on a buoy, an orange band should encircle the buoy near the water line and near the top.~~

**R651-203-2. Channel Markers.**

~~(1) White buoys with red vertical stripes mark the center of a channel and may be lettered alphabetically from downstream to upstream.~~

~~(2) Green can buoys, odd numbers, mark the left side, and red nun buoys, even numbers, mark the right side of a channel when proceeding upstream or returning from the main body of water.~~

**R651-203-3. Mooring Buoy.**

~~A mooring buoy is white and is designated with a blue band which is at least three inches wide and encircles the buoy halfway between the waterline and the top.~~

**R651-203-4. Diver's Flag.**

~~A square, red flag with a white diagonal stripe from one top corner to the opposite bottom corner should be used to indicate the presence of a diver below. A rigid replica of the International Code "A" flag not less than one meter in height may also be used. The operator of any vessel shall not approach within 150 feet of a posted diver's flag, unless the vessel is part of the equipment in use by the divers.~~

**R651-203-5. Obeying Waterway Markers.**

~~The operator of a vessel shall obey the markings or instructions of any official waterway marker.~~

**KEY:** boating

**Date of Last Change:** 1993

**Notice of Continuation:** January 5, 2021

**Authorizing, and Implemented or Interpreted Law:** 73-18-4(1)

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** Repeal

<b>Rule or Section Number:</b>	<b>R651-204</b>	<b>Filing ID:</b>	<b>56135</b>
--------------------------------	-----------------	-------------------	--------------

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	State Parks	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R651-204. Regulating Waterway Markers
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is moving to the Division of Outdoor Recreation.
<b>4. Summary of the new rule or change:</b>
This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The repeal of this rule does not affect the state budget.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
<b>B) Local governments:</b>
The repeal of this rule does not affect local governments.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
The repeal of this rule does not affect small businesses.



## NOTICES OF PROPOSED RULES

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

#### Regulatory Impact Table

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

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

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

The Executive Director of the Department of 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:**

Subsection		
73-18-4(1)(b)		

#### Public Notice Information

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

#### Agency Authorization Information

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	--------------------------	--------------	------------

#### R651. Natural Resources, Parks and Recreation.

##### ~~R651-204. Regulating Waterway Markers.~~

##### ~~R651-204.1. Placement of Waterway Markers.~~

~~\_\_\_\_\_ No person shall place on or near the waters of this state any waterway marker, except a diver's flag, without written authorization by a federal agency operating within federal authority or by the division.~~

##### ~~R651-204.2. Hazards to Navigation.~~

~~(1) Definitions~~



~~(a) "Hazard to Navigation" means, any object permanently placed on or under the waters of this state that is an obstacle to navigation, including but not limited to:~~

- ~~(i) pier or shoreline dock greater than 75 feet~~
- ~~(ii) floating dock or inflatable recreational equipment;~~
- ~~(iii) commercial fishing or scientific devices;~~
- ~~(iv) navigational aids;~~
- ~~(v) slalom courses, jump/rail or other recreational device;~~
- ~~(vi) vessels moored outside of a designated mooring area.~~
- ~~(b) "Permanent" means intended to be left on the waterway overnight or unattended during the day.~~

~~(2) No person shall place any permanent or anchored objects on the waters of this state without written authorization by a federal agency operating within federal authority or by the division.~~

~~(3) All permitted water obstacles must be visibly marked with the owner's name with letters that are:~~

- ~~(a) a contrasting color to the object; and~~
- ~~(b) at least one inch in height with the letter width proportionate to the height.~~

~~(4) Each permitted water obstacle must be marked with lights if placed overnight. Marker lights~~

- ~~(a) must meet United States Coast Guard requirements;~~
- ~~(b) must float at least 39 inches above the water;~~
- ~~(c) must be an amber or white color flashing light that flashes a minimum of 30 flashes per minute and is visible for up to one-half mile; and~~

~~(d) if buoyed, the buoy must be self-righting and have a three-inch silver radar reflective band around the top.~~

~~(5) Placement of water obstacles without a proper permit or failure to abide by the permit requirements constitute a violation of board rules and the water obstacles must be removed by the entity that placed the obstacle immediately upon notification. Water obstacles that create a hazard may be removed by the division at the owner's expense. Any damages incurred during removal by the division will not be the responsibility of the division.~~

#### **~~R651-204.3. Destruction of Waterway Markers.~~**

~~No person shall remove, destroy, or damage any waterway marker authorized to be placed by a federal agency or by the division; nor shall any person moor any vessel to a waterway marker, except mooring buoys.~~

**~~KEY: boating~~**

**~~Date of Last Change: July 8, 2013~~**

**~~Notice of Continuation: January 5, 2021~~**

**~~Authorizing, and Implemented or Interpreted Law: 73-18-4(1)(b)~~**

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

**TYPE OF FILING:** Repeal

<b>Rule or Section Number:</b>	<b>R651-205</b>	<b>Filing ID:</b> <b>56136</b>
--------------------------------	-----------------	-----------------------------------

#### **Agency Information**

<b>1. Department:</b>	Natural Resources
<b>Agency:</b>	State Parks
<b>Street address:</b>	1594 W North Temple

<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

#### **General Information**

##### **2. Rule or section catchline:**

R651-205. Zoned Waters

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

This rule is moving to the Division of Outdoor Recreation.

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

This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

#### **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 Division of Outdoor Recreation and will have no effect on the Division of State Parks.

###### **B) Local governments:**

The repeal of this rule does not affect local governments.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

**Regulatory Impact Table**

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

<b>Net Benefits</b>	<b>Fiscal</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
---------------------	---------------	------------	------------	------------

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

The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.

**Citation Information**

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

Subsection 73-18-4(1)(c)		
-----------------------------	--	--

**Public Notice Information**

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	-----------------------------	--------------	------------

**R651. Natural Resources, Parks and Recreation.**

~~**R651-205. Zoned Waters.**~~

~~**R651-205-1. Obeying Zoned Waters.**~~

~~The operator of a vessel shall obey zoned water requirements or restrictions.~~

~~**R651-205-2. Deer Creek Reservoir.**~~

~~Vessels and all other water activities are prohibited within 1500 feet of the dam. A vessel may not be operated at a speed greater than wakeless speed at any time in Wallsberg Bay.~~

~~**R651-205-3. Green River.**~~

~~The use of motors is prohibited between the Flaming Gorge Dam and the confluence with Red Creek.~~

~~**R651-205-4. Stansbury Park Lake.**~~

~~The use of vessels over 20 feet in length and motors, except electric trolling motors, is prohibited.~~

**~~R651-205-5. Lower Provo River.~~**

~~The section from where it enters into Utah Lake upstream to the gas pipeline is designated as a wakeless speed area, and the use of motors is prohibited upstream from this point.~~

**~~R651-205-6. Decker Lake.~~**

~~The use of motors is prohibited.~~

**~~R651-205-7. Palisade Lake.~~**

~~The use of motors, except electric trolling motors, is prohibited.~~

**~~R651-205-8. Ivins Reservoir.~~**

~~The use of motors whose manufacture listed horsepower is 10 horsepower or more is prohibited.~~

**~~R651-205-9. Jordan River.~~**

~~The use of motors is prohibited, except motors whose manufacture listed horsepower is less than 10 horsepower. Such motors are permitted on the Utah County portion of the river.~~

**~~R651-205-10. Ken's Lake.~~**

~~The use of motors, except electric trolling motors, is prohibited.~~

**~~R651-205-11. Pineview Reservoir.~~**

~~The use of motors, except electric motors, is prohibited in the designated area in the North Arm, North Geersten Bay and the Middle Fork of the Ogden River. Vessels are prohibited in the Middle Inlet and Cemetery Point picnic areas.~~

**~~R651-205-12. Jordanelle Reservoir.~~**

~~The use of motorboats or sailboats is prohibited in the designated area of Hailstone Beach.~~

**~~R651-205-13. Little Dell Reservoir.~~**

~~The use of motors is prohibited.~~

**~~R651-205-14. Bear Lake.~~**

~~The use of a vessel is prohibited from July 1 through Labor Day in the area adjacent to Cisco Beach starting at the entrance station and extending approximately 1/4 mile south, when this area is marked with appropriate buoys.~~

**~~R651-205-15. Lost Creek Reservoir in Morgan County.~~**

~~A vessel may not be operated at a speed greater than wakeless speed at any time.~~

**~~R651-205-16. Huntington Reservoir.~~**

~~The use of motors whose manufacturer listed horsepower is 10 horsepower or more is prohibited.~~

**~~R651-205-17. Cutler Reservoir.~~**

~~The use of motors whose manufactured listed horsepower is more than 35 horsepower is prohibited, and a vessel may not be operated at a speed greater than wakeless speed at any time in the area south of the Benson Railroad Bridge. A vessel may not be operated at a speed greater than wakeless speed from the last Saturday in September through March 31st in the Bear River, east of the confluence with the reservoir.~~

**~~R651-205-18. Newton Reservoir.~~**

~~A vessel may not be operated at a speed greater than wakeless speed when the reservoir is at or below 4,761 feet above sea level.~~

**~~KEY: boating, parks~~**

**~~Date of Last Change: June 9, 2014~~**

**~~Notice of Continuation: January 5, 2021~~**

**~~Authorizing, and Implemented or Interpreted Law: 73-18-4(1)(e)~~**

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** Repeal

<b>Rule or Section Number:</b>	<b>R651-206</b>	<b>Filing ID:</b> <b>56137</b>
--------------------------------	-----------------	-----------------------------------

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	State Parks	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R651-206. Carrying Passengers for Hire
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is moving to the Division of Outdoor Recreation.
<b>4. Summary of the new rule or change:</b>
This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The repeal of this rule does not affect the state budget.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

**B) Local governments:**

The repeal of this rule does not affect local governments.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

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

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

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

The Executive Director of the Department of 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:**

Subsection 73-18-7(18)(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.)

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

**9. This rule change MAY become effective on:**

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	-----------------------------	--------------	------------

**R651. Natural Resources, Parks and Recreation.****[R651-206. Carrying Passengers for Hire.****R651-206-1. Definitions.**

(1) "Advanced first aid training" means a course that meets the current National Registry of Emergency Medical Technicians, Emergency Medical Responder Education Standards.

(2) "Agent" means a person(s) designated by an outfitting company to act in behalf of that company.

(3) "Basic First Aid training" means a course which shall include hands on training and skills evaluation. Course examples include but are not limited to: the American Red Cross, the American Heart Association, the National Safety Council, or local hospitals.

(4) "Boating Advisory Council" As defined in R651-202-1.

(5) "Boating Program Coordinator" means a Division employee overseeing Utah's boating program that administers the United States Coast Guard's Recreational Boating Safety grant and Carrying Passengers for Hire program.

(6) "Cardiopulmonary Resuscitation (CPR)" means a hands-on course that shall include training and evaluation that meets the standards of the American Heart Association Emergency Cardiovascular Care (ECC) course.

(7) "Certificate of Compliance" means a document produced by the Division and signed by a compliance inspector and an agent of the outfitting company certifying that the company has met all the requirements of a site inspection and the Maintenance and Inspection Program for Carrying Passengers for Hire.

(8) "Certifying experience" means vessel operation or river running experience obtained within ten years of the trip leader's or guide's date of authorization by an outfitting company.

(9) "CFR" means U.S. Code of Federal Regulations.

(10) "Compliance inspector" means a person who has been trained and authorized by the Division to perform dock side, dry dock and site visits for outfitting companies.

(11) "Consideration" as defined in Utah Code 73-18-2(6), means something of value given or done in exchange for something given or done by another. Consideration also includes, but is not limited to "commercial gain and commercial activity, as defined in Utah Admin. Code R651-601-12 and -13.

(12) "Deck rail" means a guard structure at the outer edge of a vessel deck consisting of vertical solid or tubular posts and horizontal courses made of metal tubing, wood, cable, rope or suitable material.

(13) "Division" means the Utah Division of Parks and Recreation.

(14) "Dockside inspection" means an annual examination of a vessel when the vessel is afloat in the water so that all of the exterior of the vessel above the waterline and the interior of the vessel may be examined. For river trip vessels, the annual dockside inspection may be performed at the company's place of business.

(15) "Dry dock inspection" means an examination of a vessel, conducted once every five years, when the vessel is out of the water and supported so all the exterior and interior of the vessel may be examined. For float trip vessels, the five year dry dock inspection may be performed at the company's place of business.

(16) "Flatwater River Area" means all river sections defined in Utah Administrative Code R651-215-10.

(17) "Good marine practices and standards" means those methods and ways of maintaining, operating, equipping, repairing and restructuring a vessel according to commonly accepted standards, including 46 CFR, the American Boat and Yacht Council, the American Bureau of Shipping, the National Marine Manufacturers Association, and other appropriate generally accepted standards as sources of reference.

(18) "Guide" means an individual authorized by an outfitting company to carry passengers for hire.

(19) "License" means an annual certificate issued by the Division to an outfitting company that authorizes the company to Carry Passengers for Hire.

(20) "Low capacity vessel" means a manually propelled vessel designed or intended to carry no more than two occupants.

(21) "Outfitting Company" as defined in Utah Code 73-18-2(14), means any person who, for consideration:

(a) Provides equipment to transport persons on all waters of this state; and

(b) Supervises a person who:

(i) Operates a vessel to transport passengers; or

(ii) Leads a person on a vessel.

(22) "Person" means:

(a) An individual;

(b) An association;

(c) An institution;

(d) A corporation;

(e) A company;

(f) A trust;

(g) A limited liability company;

(h) A partnership;

(i) A political subdivision;

(j) A government office, department, division, bureau, or other body of government and;

(k) Any other organization or entity

(23) "Program Safety Committee" means 5 members representing their commercial boating industries to make substantive changes to the Maintenance and Inspection Program for vessels Carrying Passengers for Hire.

(24) "River trip vessel" means a vessel, or the components and equipment used to configure such a vessel that is designed to be operated on a whitewater river or section of river. A river trip vessel may be a raft with inflatable chambers or a configuration of metal and/or wood frames, straps or chains, and inflatable pontoon tubes that are integral in maintaining the flotation, structural integrity and general seaworthiness of the vessel.

(25) "Racing shell" means a long, narrow watercraft outfitted with long oars and sliding seats; and specifically designed for racing or exercise.

(26) "Site Visit" means a meeting with an outfitting company for the purpose of inspecting vessels, vessel components and trip leader and guide authorization documents.

(27) "Sole state waters," means all waters of this state, except for the waters of Bear Lake, Flaming Gorge and Lake Powell.

(28) "Towing for hire" means the activity of towing vessels or providing on the water assistance to vessels for consideration.

(29) "Trip Leader" is a guide assigned by the outfitting company to be in charge of a carrying passengers for hire trip.

(30) "Trip Log" means a document managed by an outfitting company that lists trip leaders and guides on the water experience.

(31) "Trip Manifest" means a document produced by the outfitting company authorizing a carrying passenger for hire trip

~~\_\_\_\_\_ (32) "Whitewater river" means all rivers not designated as a flatwater river area or other Division recognized whitewater rivers in other states.~~

**~~R651-206 2. Outfitting Company Responsibilities.~~**

~~\_\_\_\_\_ (1) Except where exempted by section R651-206 9, each outfitting company carrying passengers for hire on waters of this state shall make application with the Division annually, prior to commencement of operation.~~

~~\_\_\_\_\_ (a) The outfitting company licensing process with the Division requires the completion of the prescribed application form and providing the following:~~

- ~~\_\_\_\_\_ (i) Evidence of a current and valid business license;~~
- ~~\_\_\_\_\_ (ii) List of company agent(s);~~
- ~~\_\_\_\_\_ (iii) Evidence of general liability insurance coverage;~~
- ~~\_\_\_\_\_ (iv) Payment of the appropriate application fee.~~

~~\_\_\_\_\_ (b) An outfitting company license expires annually on December 31.~~

~~\_\_\_\_\_ (2) Upon successful application with the Division, the Division shall issue a license in the name of the outfitting company.~~

~~\_\_\_\_\_ (a) An outfitting company shall display its license at its place of business in a prominent location, visible to persons and passengers who enter the place of business.~~

~~\_\_\_\_\_ (b) Any outfitting company using a DBA ("doing business as") shall list any and all DBA's on the outfitting company license application. Should new DBA's be formed, the outfitting company shall notify the Division, in writing, within ten days of the action.~~

~~\_\_\_\_\_ (c) Licenses are not transferable. If a business is sold or transferred, a new license application shall be submitted by the new owner(s).~~

~~\_\_\_\_\_ (d) An outfitting company's license shall be issued electronically within a reasonable time period, not to exceed 10 days after the Division receives an eligible and complete application. Licenses will be sent by email to the email address provided by the outfitting company.~~

~~\_\_\_\_\_ (3) An agent of an outfitting company shall certify that:~~

~~\_\_\_\_\_ (a) All the elements of the Certificate of Compliance have been fulfilled;~~

~~\_\_\_\_\_ (b) Each trip leader or guide authorized by the outfitting company has:~~

- ~~\_\_\_\_\_ (i) Obtained the minimum levels of required vessel operation experience and;~~
- ~~\_\_\_\_\_ (ii) Obtained the appropriate first aid and CPR certificates.~~

~~\_\_\_\_\_ (c) Copies of the trip manifests are provided for each trip with:~~

~~\_\_\_\_\_ (i) A copy retained by the trip leader and available during the trip;~~

~~\_\_\_\_\_ (ii) A copy to remain on file with the outfitting company for six (6) years.~~

~~\_\_\_\_\_ (5) An outfitting company shall have a written policy describing a program for a drug free workplace.~~

~~\_\_\_\_\_ (6) An outfitting company shall maintain a trip log for each of its trip leaders and guides.~~

~~\_\_\_\_\_ (7) An outfitting company shall maintain a trip manifest for each trip or excursion conducted by the company. The trip manifest shall contain the following information:~~

~~\_\_\_\_\_ (a) Name and address and phone number of the outfitting company;~~

~~\_\_\_\_\_ (b) Name, date of birth of each trip leader and guide assigned to the trip;~~

~~\_\_\_\_\_ (c) Trip departure and arrival locations with dates and/or times; and~~

~~\_\_\_\_\_ (d) A passenger list.~~

~~\_\_\_\_\_ (8) An outfitting company shall maintain a daily or trip operations log for each of its vessels.~~

~~\_\_\_\_\_ (9) A trip leader assigned by the outfitting company shall accompany every commercial trip.~~

~~\_\_\_\_\_ (10) An outfitting company shall ensure that a trip leader or guide conducts a vessel safety check and a passenger orientation prior to embarking on a trip.~~

~~\_\_\_\_\_ (a) The vessel safety check shall include:~~

~~\_\_\_\_\_ (i) A check of the vessel's required carriage of safety equipment;~~

~~\_\_\_\_\_ (ii) A check of the vessel's communication systems;~~

~~\_\_\_\_\_ (iii) A check of the operation and control of the vessel's steering controls and propulsion system; and~~

~~\_\_\_\_\_ (iv) A check of the vessel's navigation lights, if the vessel will be operating between sunset and sunrise.~~

~~\_\_\_\_\_ (b) The passenger orientation shall include:~~

~~\_\_\_\_\_ (i) A passenger count;~~

~~\_\_\_\_\_ (ii) A discussion of safety protocols and emergency operations with passengers on board the vessel;~~

~~\_\_\_\_\_ (iii) The conditions of weather, river, terrain, equipment, travel, housing and vessels that passengers may expect to encounter;~~

~~\_\_\_\_\_ (iv) The personal equipment, clothing and gear that commercial passengers should have for the trip;~~

~~\_\_\_\_\_ (v) The proper fit, wearing, and use of personal flotation devices (PFD);~~

~~\_\_\_\_\_ (vi) Passenger riding and positioning in the vessel;~~

~~\_\_\_\_\_ (vii) Safety procedures for swimming through river rapids and getting back in the vessel;~~

~~\_\_\_\_\_ (viii) Instructions on what to do in the event of a vessel accident; and~~

~~\_\_\_\_\_ (ix) Sanitation, litter prevention and human refuse disposal.~~

~~\_\_\_\_\_ (11) An outfitting company shall ensure that each vessel in its fleet is equipped with the required safety equipment.~~

~~\_\_\_\_\_ (12) An outfitting company shall maintain each vessel in its fleet according to good marine practices and standards.~~

~~\_\_\_\_\_ (a) The outfitting company shall ensure that each vessel used in the service of carrying passengers for hire meets the maintenance and inspection requirements, if such inspections are required of a vessel.~~

~~\_\_\_\_\_ (b) The outfitting company shall maintain a file of its maintenance and inspections for each vessel, or the components and equipment that configure a river trip vessel that is required to be inspected in its fleet. Maintenance and inspection files shall be retained for the duration in which the vessel is in the service of carrying passengers for hire, plus six additional years.~~

~~\_\_\_\_\_ (13) The owner of a vessel carrying passengers for hire shall carry general liability insurance. The insurance coverage shall be determined by the permitting agency.~~

~~\_\_\_\_\_ (14) Upon request of an agent of the Division, an outfitting company shall provide the Division with a copy of the company's:~~

~~\_\_\_\_\_ (a) Liability insurance policy;~~

~~\_\_\_\_\_ (b) Drug free workplace policy;~~

~~\_\_\_\_\_ (c) Trip manifests;~~

~~\_\_\_\_\_ (d) Trip Authorization permits;~~

~~\_\_\_\_\_ (e) A vessel's maintenance and inspection files; or~~

~~\_\_\_\_\_ (f) Trip leader and guide trip logs.~~

~~\_\_\_\_\_ (15) An outfitting company that is registered to carry passengers for hire in another state and possesses a state issued certificate of outfitting company registration, or similar license, permit or registration accepted and recognized by the Division, where~~



the state has similar outfitting company registration provisions, shall not be required to obtain and display a Utah License of outfitting company registration as required by this section when:

~~(a) Operating vessels on Bear Lake, Flaming Gorge, and Lake Powell where a trip embarks and disembarks from the out-of-state portion of the lake and less than 25 percent of a trip is conducted on the Utah portion of the lake.~~

~~(b) Operating vessels on rivers flowing into Utah where the river trip originates out of state and terminates at the first available launch ramp/take-out.~~

~~(i) For vessels operating on the Colorado River, the first available take-out is the Westwater Ranger Station launch ramp/take-out.~~

~~(ii) For vessels operating on the Dolores River, the first available take-out is the Dewey Bridge launch ramp/take-out on the Colorado River.~~

~~(iii) For vessels operating on the Green River, the first available take-out is the Split Mountain launch ramp/take-out.~~

~~(iv) For vessels operating on the San Juan River, the first available take-out is the Montezuma Creek launch ramp/take-out.~~

### **R651-206.3. Utah Carrying Passengers for Hire (CPFH) Trip Leader and Guide Qualifications.**

~~(1) Unless exempted in R651-206.9, no person shall operate a vessel engaged in carrying passengers for hire on sole state waters unless that person is a trip leader, guide or U.S. Coast Guard Master's License holder authorized by an outfitting company licensed by the Division.~~

~~(2) When carrying passengers for hire on the waters of Bear Lake, Flaming Gorge or Lake Powell,~~

~~(a) on motorized trips the trip leader authorized by an outfitting company shall have a valid and appropriately endorsed U.S. Coast Guard Master's License.~~

~~(b) on non-motorized trips, authorized trip leaders and guides are not required to have a U.S. Coast Guard Master's License.~~

~~(3) Every trip leader and guide engaged in carrying passengers for hire shall have in their possession a trip manifest issued by the outfitting company containing the information in R651-206.2(7).~~

~~(4) A person qualified as a trip leader on lakes and reservoirs shall meet the following qualifications:~~

~~(a) have a valid and appropriately endorsed U.S. Coast Guard Master's License for motorized trips.~~

~~(b) Be at least 18 years of age.~~

~~(c) Complete a minimum of at least 80 hours of actual vessel operation experience, including 40 hours operating the same or similar vessel on the same lake or reservoir upon which the person shall carry passengers for hire.~~

~~(d) Possess a current advanced first aid certification; and~~

~~(e) Possess a current CPR certification.~~

~~(f) A person qualified to lead as a trip leader on motorized and/or non-motorized trips shall meet the following criteria:~~

~~(i) Motorized trips: completion of National Association of State Boating Law Administrators (NASBLA) approved boating safety course.~~

~~(ii) Non-motorized trips: completion of a skills course from the American Canoe Association (ACA) or from the World Paddling Association (WPA).~~

~~(5) A person qualified as a trip leader operating on whitewater rivers shall meet the following qualifications:~~

~~(a) Be at least 18 years of age.~~

~~(b) Complete a minimum of nine river trips on whitewater river sections, including at least one trip shall operate the same or similar vessel on the same river section on which the operator will be carrying passengers for hire.~~

~~(c) Possess a current advanced first aid certification.~~

~~(d) Possess a current CPR certification.~~

~~(6) A person qualified as a trip leader operating on Flat water river areas shall meet the following qualifications:~~

~~(a) Be at least 18 years of age.~~

~~(b) Complete a minimum of six river trips on any river section, and at least one trip shall operate the same or similar vessel, on the same river section on which the trip leader will be carrying passengers for hire.~~

~~(c) Possess a current advanced first aid certification.~~

~~(d) Possess a current CPR certification.~~

~~(7) A person qualified as a guide operating on Lakes and Reservoirs, shall meet the following qualifications:~~

~~(a) Have a valid and appropriately endorsed U.S. Coast Guard Master's License for motorized trips or~~

~~(a) Be at least 18 years of age.~~

~~(b) Complete a minimum of at least 20 hours of actual vessel operation experience; Including 10 hours operating the same or similar vessel on the same lake or reservoir upon which the person shall carry passengers for hire.~~

~~(c) Possess a current basic first aid certification.~~

~~(d) Possess a current CPR certification.~~

~~(e) A person qualified as a guide operating on motorized and/or non-motorized trips shall meet the following criteria:~~

~~(i) Motorized trips: completion of a National Association of Boating Law Administrators (NASBLA) approved boating safety course.~~

~~(ii) Non-motorized trips: completion of a skills course from the American Canoe Association (ACA) or from the World Paddling Association (WPA).~~

~~(8) A person qualified as a guide operating on whitewater rivers, shall meet the following qualifications:~~

~~(a) Be at least 18 years of age.~~

~~(b) Complete a minimum of three river trips on "whitewater" rivers or river sections, and at least one trip shall operate the same or similar vessel, on the same river section on which the person will be carrying passengers for hire.~~

~~(c) Possess a current basic first aid certification.~~

~~(d) Possess a current CPR certification.~~

~~(9) A person qualified as a guide operating on flatwater rivers, shall meet the following qualifications;~~

~~(a) Be at least 18 years of age.~~

~~(b) Complete a minimum of three river trips on flatwater or whitewater river sections, and at least one trip shall operate the same or similar vessel on the same river section on which the person will be carrying passengers for hire.~~

~~(c) Possess a current basic first aid certification.~~

~~(d) Possess a current CPR certification.~~

~~(10) An outfitting company shall maintain a trip log for each person certified by the company as a trip leader or guide. The log shall include the person's:~~

~~(a) Full legal name and date of birth;~~

~~(b) Proof of a current certification in first aid and CPR.~~

~~(c) A record of on water experience including dates of trips.~~

~~(11) An outfitting company shall maintain all trip leader and guide trip logs while they are authorized by the company and for a period of at least six years after his/her termination. These records shall be maintained at the outfitting company's designated place of~~

business. The outfitting company, or any employee having access to such records, shall provide it to any peace officer enforcing the provisions of R651-602.

(13) A trip leader or guide shall not carry passengers for hire when unfamiliar with the vessel and the waterway provided there is a trip leader or guide on board who is familiar. An exception to this rule allows a trip leader to lead passengers on an unfamiliar lake, reservoir, or a flatwater river area, as long as there is a trip leader or guide who is familiar with the vessel, the waterway, and remains within sight of the rest of the group.

(14) There shall be at least one trip leader and one guide under the following conditions:

(a) On a vessel carrying more than 49 passengers for hire;

(b) On a vessel carrying more than 24 passengers for hire, and operating more than one mile from shore;

(c) For each passenger deck on a vessel.

(15) Requirements for leading low capacity vessels in a group:

(a) On lakes and reservoirs, there shall be at least one trip leader or guide for every eight low capacity vessels;

(b) On whitewater river sections, there shall be at least one trip leader or guide for every four low capacity vessels.

(c) On flatwater river areas, there shall be at least one trip leader or guide for every six low capacity vessels or racing shells.

(16) A trip leader or guide shall not operate a vessel for more than 12 hours in a 24 hour period.

**~~R651-206.4. Additional Personal Floatation Device (PFD) Requirements for Vessels Carrying Passengers for Hire.~~**

(1) Wearable PFDs are required. Each vessel shall have an adequate number of wearable PFDs on board that meets or exceeds the number of persons on board the vessel. The wearable PFD shall be approved for the activity in which it is going to be used.

(2) In situations where infants, children and youth are in enclosed cabin areas of vessels over 19 feet in length and not wearing PFDs, a minimum of ten percent of the wearable PFDs on board the vessel shall be of an appropriate type and size for infants, children and youth passengers.

(3) Wearable PFDs shall be listed for commercial use on the label.

(4) If PFDs are not being worn by passengers, and the PFDs are being stored on the vessel, the PFDs shall be stored in readily accessible containers that legibly and visually indicate their contents.

(5) Each PFD shall be marked with the name of the outfitting company, in one inch high letters that contrast with the color of the device.

(6) Vessels that are 26 feet or more in length shall carry a throwable PFD, and it shall be a ring life buoy.

(a) Vessels that are 40 feet or more in length shall carry a minimum of two throwable PFDs.

(b) Ring life buoys shall have a minimum of 60 feet of line attached.

(7) All passengers and crew members shall wear a PFD when a vessel is being operated in hazardous conditions.

(8) The trip leader or guide is responsible for the passengers on his vessel to be in compliance with this section and R651-215.

**~~R651-206.5. Additional Fire Extinguisher Requirements for Vessels Carrying Passengers for Hire.~~**

(1) Each motorboat shall carry a minimum of one type B-I fire extinguisher. Vessels equipped solely with an electric motor, and not carrying flammable fuels on board, are exempt from this provision.

(2) Each motorboat that carries more than six passengers and is equipped with an inboard, inboard/outboard, inboard jet, or direct drive gasoline engine, shall have at least one fixed U.S. Coast Guard approved fire extinguishing system mounted in the engine compartment.

(3) Portable fire extinguishers shall be mounted in a readily accessible location, near the helm, away from the engine compartment. For motorized vessels operating on rivers, portable fire extinguishers may be stowed in a readily accessible location near the operator's position.

(4) For vessels carrying more than 12 passengers for hire or providing on-board overnight passenger accommodations, smoke detectors shall be installed in each enclosed passenger area.

**~~R651-206.6. Additional Equipment Requirements for Vessels Carrying Passengers for Hire.~~**

(1) Emergency communications equipment.

(a) An outfitting company shall have appropriate communication equipment for contacting emergency services, or have a policy and emergency communications protocols that describe the quickest and most efficient means of contacting emergency services, taking into consideration the remoteness of the area in which the vessel will be operated.

(b) For vessels traveling in a group, this requirement can be met by carrying one communication device in the group.

(2) Carbon monoxide detectors shall be provided in each enclosed passenger area.

(3) Vessels carrying more than six passengers for hire and operating at a distance greater than one mile from shore shall provide the following:

(a) An appropriate number of life rafts or other lifesaving apparatus(s);

(b) A minimum of three visual distress signals that are approved for day and night use.

(5) Navigation equipment.

(a) Each vessel shall carry a map or chart of the water body and a compass or GPS unit that is in good and serviceable condition.

(b) For vessels traveling in a group, this requirement can be met by carrying a map or chart and a compass or GPS unit in the group.

(c) River trip vessels are only required to carry a map of the water body or river or river sections.

(6) Lines, straps and anchorage.

(a) Each vessel shall be equipped with at least one suitable anchor and an appropriate anchorage system, respective of the body of water on which the vessel will be operating. Any line, when attached to an anchor, shall be attached by an eye splice, thimble and shackle. On lakes and/or reservoirs, low capacity vessels and racing shells are exempt from this requirement.

(b) Vessels operating on rivers are exempt from carrying an anchor, but shall have sufficient lines to secure the vessel to shore.

\_\_\_\_\_ (c) Lines and straps utilized for anchorage, mooring and maintaining vessel structural integrity shall be in good and serviceable condition.

\_\_\_\_\_ (7) At least one portable, battery operated light per trip leader or guide shall be on board, in good and serviceable condition and readily accessible.

\_\_\_\_\_ (8) First Aid Kit.

\_\_\_\_\_ (a) Each vessel shall have on board, an adequate first aid kit, stocked with supplies respective to the number of passengers carried on board, and the nature of boating activity in which the vessel will be engaged.

\_\_\_\_\_ (b) For vessels traveling in a group, this requirement can be met by carrying one first aid kit in the group.

\_\_\_\_\_ (9) Identification of outfitting company.

\_\_\_\_\_ (a) An outfitting company shall prominently display its name on the hull or superstructure of the vessel.

\_\_\_\_\_ (b) The display of an outfitting company's name shall not interfere with any required numbering, registration or documentation display.

\_\_\_\_\_ (c) If another governmental agency prohibits the display of an outfitting company's name on the exterior of a vessel, the name shall be displayed in a visible manner that does not violate the agency's requirements.

\_\_\_\_\_ (10) Marine toilets and sanitary facilities.

\_\_\_\_\_ (a) Each vessel carrying more than six passengers for hire shall be equipped with a minimum of one marine toilet and washbasin sanitary facilities, except for vessels where suitable privacy enclosures are not practical.

\_\_\_\_\_ (b) The toilet and washbasin shall be connected to a permanently installed holding tank that allows for dockside pumpout at approved sanitary disposal facilities. Vessels that do not have access to dockside pumpout facilities may carry a portable marine toilet and washbasin to meet this requirement.

\_\_\_\_\_ (c) For vessels traveling in a group, this requirement can be met by carrying one marine sanitation device in the group.

\_\_\_\_\_ (d) Marine toilets and washbasins shall be maintained in a good and serviceable, sanitary condition.

\_\_\_\_\_ (e) A vessel that carries more than 49 passengers shall have at least two marine toilets and washbasins, one each for men and women.

\_\_\_\_\_ (f) A vessel operating on a trip or excursion with a duration of one hour or less, or operating on a river, is not required to be equipped with a marine toilet or washbasin.

#### **R651-206-7. Towing Vessels for Hire Requirements.**

\_\_\_\_\_ (1) Any person or entity that provides the service of towing vessels for hire on waters of this state, shall make application with the Division as an outfitting company.

\_\_\_\_\_ (2) A vessel engaged in the activity of towing vessels for hire shall comply with the dockside and dry dock vessel maintenance and inspection requirements, plus the additional equipment requirements described in this section.

\_\_\_\_\_ (3) Any conditions of a contract, special-use permit, or other agreement with a person or entity that is towing vessels for hire, shall not supersede the boating safety and assistance activities of a state park ranger, other law enforcement officer, emergency and search and rescue personnel, a member of the U.S. Coast Guard Auxiliary, or any other person providing "Good Samaritan" service to vessels needing or requesting assistance.

\_\_\_\_\_ (4) Any vessel receiving assistance from a state park ranger, other law enforcement officer, emergency and search and rescue personnel, a member of the U.S. Coast Guard Auxiliary, or

any person providing "Good Samaritan" service need not be turned over to, or directed to a person or entity registered with the Division and authorized to tow vessels for hire, unless the operator or owner of the vessel receiving assistance specifically requests such action.

\_\_\_\_\_ (5) A trip leader or guide towing vessels for hire shall immediately notify a law enforcement officer of any vessel they assist, if the person reasonably believes the vessel being assisted was involved in a reportable boating accident or the operator or occupants pose a threat to themselves or others.

\_\_\_\_\_ (6) A trip leader or guide towing vessels for hire shall not perform an emergency rescue unless he reasonably believes immediate emergency assistance is required to save the lives of persons, prevent additional injuries to persons onboard a vessel, or reduce damage to a vessel, and a state park ranger, other law enforcement officer, emergency and search and rescue personnel, or a member of the U.S. Coast Guard Auxiliary is not immediately available, or a state park ranger, other law enforcement officer, or emergency and search and rescue personnel make such a request for emergency assistance.

\_\_\_\_\_ (7) The owner of a vessel engaged in towing vessels for hire shall carry general liability insurance. The insurance coverage shall be determined by the permitting agency.

\_\_\_\_\_ (8) A vessel engaged in towing vessels for hire, shall be a minimum of 21 feet in length and have a minimum total of a 150 hp gasoline engine(s) or a 90 hp diesel engine(s). The towing vessel should be as large as or larger than the average vessel it will be towing.

\_\_\_\_\_ (9) An outfitting company shall provide appropriate types of training for each of its trip leaders or guides. Each trip leader or guide shall conduct a minimum of five training evolutions of towing a vessel each year, with at least one evolution being a side tow.

\_\_\_\_\_ (10) The trip leader or guide and any passengers on board a vessel engaged in towing vessels for hire, shall wear a PFD at all times. The trip leader or guide is responsible for all occupants of a vessel being towed wear a properly fitted PFD for the duration of the tow.

\_\_\_\_\_ (11) An outfitting company engaged in towing vessels for hire shall keep a log of each tow or vessel assist. The towing vessels for hire log of activities shall include:

\_\_\_\_\_ (a) Assisted vessel's assigned bow number.

\_\_\_\_\_ (b) Name of assisted vessel's owner or operator, including address and phone number.

\_\_\_\_\_ (c) Number of persons on board the assisted vessel.

\_\_\_\_\_ (d) Nature of assistance.

\_\_\_\_\_ (e) Date and time assistance provided.

\_\_\_\_\_ (f) Location of the assisted vessel.

\_\_\_\_\_ (g) The trip leader or guide of the vessel towing for hire shall make appropriate radio or other communications of the above actions with a person on land preferable at the outfitting company's place of business.

\_\_\_\_\_ (h) Upon request of an agent of the Division, an outfitting company shall provide the Division with a copy of a towing vessels for hire log.

\_\_\_\_\_ (12) Additional equipment requirements for vessels towing for hire:

\_\_\_\_\_ (a) PFDs.

\_\_\_\_\_ (i) Shall carry a sufficient number of Wearable PFDs, approved for the activity engaged in, for all persons on board a towed vessel.

\_\_\_\_\_ (ii) Shall carry a minimum of two throwable PFDs, one of which shall be a ring life buoy.

\_\_\_\_\_ (b) Shall be equipped with a depth finder.

## NOTICES OF PROPOSED RULES

- ~~\_\_\_\_\_ (c) Shall be equipped with a tow Line.~~
- ~~\_\_\_\_\_ (i) Shall be a minimum of 100 feet of 5/8" line with a tow bridle.~~
- ~~\_\_\_\_\_ (ii) Towing vessel shall be equipped with a towing post or reinforced cleats.~~
- ~~\_\_\_\_\_ (d) Vessel shall carry a dewatering pump with a minimum capacity of 25 gallons per minute, to be used to dewater other vessels.~~
- ~~\_\_\_\_\_ (e) If a vessel is towing for hire between sunset and sunrise, the vessel shall carry the following pieces of equipment:~~
  - ~~\_\_\_\_\_ (i) A white spot light with a minimum brightness of 500,000 candle power.~~
  - ~~\_\_\_\_\_ (ii) It is recommended that a vessel be equipped with electronic RADAR equipment.~~
  - ~~\_\_\_\_\_ (f) Vessel shall carry a loudhailer, speaker, or other means of communicating with another vessel from a distance.~~
  - ~~\_\_\_\_\_ (g) Vessel shall carry the following equipment, in addition to the equipment required for vessels carrying passengers for hire:~~
    - ~~\_\_\_\_\_ (i) A knife capable of cutting the vessel's towline;~~
    - ~~\_\_\_\_\_ (ii) A boat hook;~~
    - ~~\_\_\_\_\_ (iii) A minimum of four six inch fenders;~~
    - ~~\_\_\_\_\_ (iv) Binoculars;~~
    - ~~\_\_\_\_\_ (v) A jump starting system;~~
    - ~~\_\_\_\_\_ (vi) A tool kit and spare items for repairs on assisting vessel; and~~
    - ~~\_\_\_\_\_ (vii) Damage control items for quick repairs to another vessel.~~

### **~~R651-206-8. Maintenance and Inspections Program of Vessels Carrying Passengers for Hire.~~**

- ~~\_\_\_\_\_ (1) Each outfitting company carrying passengers for hire shall have a current copy of the Maintenance and Inspection Program for Carrying Passengers for Hire. The outfitting company shall comply with all the necessary sections of the Program.~~
- ~~\_\_\_\_\_ (2) The Division shall request the formation of a safety committee by the Boating Advisory Council as defined in R651-202-1 for the purpose of overseeing, maintaining, and recommending any substantive changes to the program.~~
  - ~~\_\_\_\_\_ (i) The members of this safety committee shall be selected and directly report to the Boating Advisory Council.~~
  - ~~\_\_\_\_\_ (ii) This committee shall consist of five members:~~
    - ~~\_\_\_\_\_ (a) two members representing the industry for non float trip vessels in Utah;~~
    - ~~\_\_\_\_\_ (b) two members representing the industry for float trip vessels in Utah;~~
    - ~~\_\_\_\_\_ (c) and one member representing a state or federal agency responsible for managing or regulating the activity of carrying passengers for hire in Utah.~~
    - ~~\_\_\_\_\_ (iii) This committee shall convene when the Boating Advisory Council hears a proposal that requests substantive changes to the program or the Division's Boating Program Coordinator requests an evaluation of the program.~~
    - ~~\_\_\_\_\_ (iv) The Division's Boating Program Coordinator shall have authority to assign or delegate responsibilities among the safety committee members.~~

### **~~R651-206-9. Exemptions to R651-206.~~**

- ~~\_\_\_\_\_ (1) Owners and employees of a migratory bird production area created under Title 23, Chapter 28, Migratory Bird Production Area and operating within that Migratory Bird Production Area shall not be considered an outfitting company.~~

- ~~\_\_\_\_\_ (2) The Director or his designee may exempt a charitable organization or volunteer, meaning a person donating service without pay or other compensation, from an outfitting company's licensing requirements, upon submission of a written application and request for hearing, pursuant to the procedures set forth in Utah Code Ann. 63G-4-201(1), Utah Admin. Code R651-101 et seq. and as further set forth in these rules. The determination shall be made after a hearing, and upon showing by a preponderance of the evidence.~~

### **~~R651-206-10. Enforcement.~~**

- ~~\_\_\_\_\_ (1) Outfitter Violations~~
  - ~~\_\_\_\_\_ (a) Suspension, Revocation or Denied License~~
    - ~~\_\_\_\_\_ (i) Pursuant to the procedures set forth in Utah Code Ann. 63G-4-201(1), Utah Admin. Code R651-101 et seq. and these rules an outfitting company's annual license with the Division may be suspended, denied, or revoked for a length of time determined by the Division director or designee, if one of the following occurs:~~
      - ~~\_\_\_\_\_ (ii) The outfitting company's, or agent's negligence caused personal injury or death as determined by due process of law;~~
      - ~~\_\_\_\_\_ (iii) The outfitting company or agent is convicted of three violations of Title 73, Chapter 18, or rules promulgated thereunder during a calendar year period;~~
      - ~~\_\_\_\_\_ (iv) False or fictitious statements were certified or false qualifications were used to qualify a person authorized by the outfitting company as a trip leader or guide;~~
      - ~~\_\_\_\_\_ (v) The Division determines that the outfitting company intentionally provided false or fictitious statements or qualifications when making application with the Division;~~
      - ~~\_\_\_\_\_ (vi) The Division determines that the outfitting company intentionally provided false statements or qualifications when certifying the condition of a vessel or equipment;~~
      - ~~\_\_\_\_\_ (vii) The outfitting company has utilized a private trip permit for carrying passengers for hire and has been prosecuted by the issuing agency and found guilty of the violation;~~
      - ~~\_\_\_\_\_ (viii) The outfitting company used a non-authorized trip leader or guide while engaging in carrying passengers for hire; or~~
      - ~~\_\_\_\_\_ (ix) The outfitting company is convicted of violating a resource protection regulation or public safety regulation in effect by the respective land managing and/or access permitting agency.~~
    - ~~\_\_\_\_\_ (2) Guide or Trip Leader violations.~~
      - ~~\_\_\_\_\_ (a) Pursuant to the procedures set forth in Utah Code Ann. 63G-4-201(1), Utah Admin. Code R651-101 et seq. and these rules, an outfitting company's annual license with the Division may be suspended, denied, or revoked for a length of time. The privilege to guide or carry passengers for hire may be suspended, revoked, or denied by the Division or the outfitting company if a trip leader or guide is convicted of the following offence(s):~~
        - ~~\_\_\_\_\_ (i) Three violations of the Utah Boating Act, Title 73, Chapter 18, or rules promulgated thereunder driving under the influence or reckless driving while carrying passenger for hire, as set forth in the Traffic Code, Utah Code Ann. 41-6a-501 and 53-3-231;~~
        - ~~\_\_\_\_\_ (ii) The Division determines that the trip leader or guide intentionally provided false or fictitious statements or qualifications to obtain authorization to carry passengers for hire by an outfitting company.~~

### **~~KEY: boating~~**

**~~Date of Last Change: March 25, 2019~~**

**~~Notice of Continuation: January 5, 2021~~**

**~~Authorizing, and Implemented or Interpreted Law: 73-18-7(18)(d)]~~**

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	R651-207	Filing ID: 56138

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	State Parks	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

2. Rule or section catchline:
R651-207. Registration Fee
3. Purpose of the new rule or reason for the change:
This rule is moving to the Division of Outdoor Recreation.
4. Summary of the new rule or change:
This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

**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 Division of Outdoor Recreation and will have no effect on the Division of State Parks.
B) Local governments:
The repeal of this rule does not affect local governments.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
C) Small businesses ("small business" means a business employing 1-49 persons):
The repeal of this rule does not affect small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

**Regulatory Impact Table**

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

## NOTICES OF PROPOSED RULES

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

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

The Executive Director of the Department of 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:**

Subsection 73-18-7(2)(b)		
-----------------------------	--	--

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	01/10/2024
---	------------

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	-----------------------------	--------------	------------

~~R651. Natural Resources, Parks and Recreation.~~

~~R651-207. Registration Fee.~~

~~R651-207-1. Yearly Registration Fee.~~

~~The registration fee shall be \$40 per year.~~

~~KEY: boating~~

~~Date of Last Change: January 15, 2020~~

~~Notice of Continuation: January 5, 2021~~

~~Authorizing, and Implemented or Interpreted Law: 73-18-7(2)(b)~~

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** Repeal

<b>Rule or Section Number:</b>	<b>R651-208</b>	<b>Filing ID:</b> <b>56139</b>
--------------------------------	-----------------	-----------------------------------

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	State Parks	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R651-208. Backing Plates
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is moving to the Division of Outdoor Recreation.
<b>4. Summary of the new rule or change:</b>
This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The repeal of this rule does not affect the state budget.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
<b>B) Local governments:</b>
The repeal of this rule does not affect local governments.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
The repeal of this rule does not affect small businesses.



This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

**Regulatory Impact Table**

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

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

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

The Executive Director of the Department of 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:**

Subsection 73-18-7(4)	Subsection 73-18-7(17)(a)	
-----------------------	---------------------------	--

**Public Notice Information**

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	--------------------------	--------------	------------

**R651. Natural Resources, Parks and Recreation.**

~~**[R651-208. Backing Plates.**~~

~~**R651-208 1. Backing Plates.**~~

~~On vessels where an assigned number on the hull or superstructure would not be visible or where the type of hull material used would make it impractical to attach an assigned number, the assigned number and registration decals may be mounted on a backing plate and displayed as required in Subsection 73-18-7(4) of the Utah Code Annotated and Rule R651-212.~~

# NOTICES OF PROPOSED RULES

**KEY:** ~~boating~~

**Date of Last Change:** ~~1987~~

**Notice of Continuation:** January 5, 2021

**Authorizing, and Implemented or Interpreted Law:** ~~73-18-7(4); 73-18-7(17)(a)]~~

## NOTICE OF PROPOSED RULE

**TYPE OF FILING:** Repeal

<b>Rule or Section Number:</b>	<b>R651-209</b>	<b>Filing ID:</b> <b>56140</b>
--------------------------------	-----------------	-----------------------------------

### Agency Information

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	State Parks	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

### General Information

<b>2. Rule or section catchline:</b>
R651-209. Anchored and Beached Vessels
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is moving to the Division of Outdoor Recreation.
<b>4. Summary of the new rule or change:</b>
This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

### Fiscal Information

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The repeal of this rule does not affect the state budget.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
<b>B) Local governments:</b>
The repeal of this rule does not affect local governments.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0

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

**Citation Information**

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Subsection 73-18-4(1)(e)		

**Public Notice Information**

<b>8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)</b>	
<b>A) Comments will be accepted until:</b>	01/03/2024

<b>9. This rule change MAY become effective on:</b>	01/10/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	--------------------------	--------------	------------

**R651. Natural Resources, Parks and Recreation.**~~**R651-209. Anchored and Beached Vessels.**~~~~**R651-209 1. Anchored Vessels.**~~

~~Unless permitted to do so by the local managing agency:~~  
~~(1) an anchored vessel may not be left unattended for more than 48 hours.~~  
~~(2) a vessel may not be anchored for more than 72 hours in one location.~~  
~~(3) a vessel anchored for 72 hours that wishes to continue anchorage on a waterbody must move at least two miles away from the last position of anchorage.~~

~~**R651-209 2. Beached Vessels.**~~

~~Unless permitted to do so by the local managing agency:~~  
~~(1) a beached vessel may not be left unattended for more than 48 hours.~~  
~~(2) a vessel may not be beached for more than 72 hours in one location.~~  
~~(3) a vessel beached for 72 hours that wishes to continue to beach on a waterbody must move at least two miles away from the last position of being beached.~~

~~**KEY: boating, anchored vessels, beached vessels**~~~~**Date of Last Change: December 9, 2011**~~~~**Notice of Continuation: January 5, 2021**~~~~**Authorizing, and Implemented or Interpreted Law: 73-18-4(1)(e)]**~~**NOTICE OF PROPOSED RULE****TYPE OF FILING:** Repeal

<b>Rule or Section Number:</b>	<b>R651-210</b>	<b>Filing ID:</b> <b>56141</b>
--------------------------------	-----------------	-----------------------------------

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	State Parks	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

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

R651-210. Change of Address

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

This rule is moving to the Division of Outdoor Recreation.

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

This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

**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 Division of Outdoor Recreation and will have no effect on the Division of State Parks.

**B) Local governments:**

The repeal of this rule does not affect local governments.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

**Regulatory Impact Table**

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

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

The Executive Director of the Department of 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:**

Subsection 73-18-7(13)(b)		
------------------------------	--	--

**Public Notice Information**

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	-----------------------------	--------------	------------

**R651. Natural Resources, Parks and Recreation.**

~~[R651-210. Change of Address.~~

~~R651-210-1. Change of Address.~~

~~The registered owner of a motorboat or sailboat, after notifying the division or agent of the division of his change of address, shall note the new address on his current registration card.~~

~~KEY: boating~~

~~Date of Last Change: 1987~~

~~Notice of Continuation: January 5, 2021~~

~~Authorizing, and Implemented or Interpreted Law: 73-18-7(13)(b)~~

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** Repeal

<b>Rule or Section Number:</b>	<b>R651-211</b>	<b>Filing ID:</b>	<b>56142</b>
--------------------------------	-----------------	-------------------	--------------

**Agency Information**

<b>1. Department:</b>	Natural Resources		
<b>Agency:</b>	State Parks		
<b>Street address:</b>	1594 W North Temple		
<b>City, state and zip:</b>	Salt Lake City, UT 84116		
<b>Mailing address:</b>	PO Box 146001		
<b>City, state and zip:</b>	Salt Lake City, UT 84114		
<b>Contact persons:</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov	
<b>Please address questions regarding information on this notice to the persons listed above.</b>			

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

R651-211. Assigned Numbers

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

This rule is moving to the Division of Outdoor Recreation.

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

This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

**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 Division of Outdoor Recreation and will have no effect on the Division of State Parks.

**B) Local governments:**

The repeal of this rule does not affect local governments.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

**Regulatory Impact Table**

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

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

The Executive Director of the Department of 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:**

Subsection		
73-18-7(17)(a)		

**Public Notice Information**

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	-----------------------------	--------------	------------

**R651. Natural Resources, Parks and Recreation.**

~~[R651-211. Assigned Numbers.~~

~~R651-211-1. Assigned Numbers.~~

~~The assigned number will consist of the prefix letters, "UT", to designate the State of Utah, one to four numerals, and two suffix letters that may designate a certain type of vessel. The suffix letters that designate a certain type of vessel are: AB—Airboat; DL—marine dealer or manufacturer; EX—Exempt (for official government business only). All other suffixes shall be randomly assigned.~~

~~R651-211-2. Assigned Number Reserved for the Division.~~

~~"UT 2628 BP" shall be the assigned number reserved for Division use in boating education and law enforcement training, and shall not be assigned to any vessel.~~

~~KEY: boating~~

~~Date of Last Change: January 15, 2005~~

~~Notice of Continuation: January 5, 2021~~

~~Authorizing, and Implemented or Interpreted Law: 73-18-7(17)(a)]~~

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** Repeal

<b>Rule or Section Number:</b>	<b>R651-212</b>	<b>Filing ID:</b> <b>56143</b>
--------------------------------	-----------------	-----------------------------------



**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	State Parks	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R651-212. Display of Yearly Registration Decals and Month of Expiration Decals
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is moving to the Division of Outdoor Recreation.
<b>4. Summary of the new rule or change:</b>
This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The repeal of this rule does not affect the state budget.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
<b>B) Local governments:</b>
The repeal of this rule does not affect local governments.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
The repeal of this rule does not affect small businesses.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):

The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

**Regulatory Impact Table**

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

## NOTICES OF PROPOSED RULES

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.			

## Citation Information

**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 73-18-7(18)(b)		
------------------------------	--	--

## Public Notice Information

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

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	01/10/2024
---	------------

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

## Agency Authorization Information

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	-----------------------------	--------------	------------

## R651. Natural Resources, Parks and Recreation.

~~[R651-212. Display of Yearly Registration Decals and Month of Expiration Decals.~~

~~R651-212-1. Display of Registration Decals.~~

~~\_\_\_\_\_ A yearly registration decal shall be displayed three inches aft of the assigned number on each side of the vessel. On documented vessels, a yearly registration decal shall be displayed on each side of the forward half of the vessel. Only current year registration decals may be displayed.~~

~~R651-212-2. Month of Expiration Decal.~~

~~\_\_\_\_\_ A month of expiration decal shall be displayed immediately aft of the yearly registration decal.~~

~~KEY: boating~~

~~Date of Last Change: January 15, 2005~~

~~Notice of Continuation: January 5, 2021~~

~~Authorizing, and Implemented or Interpreted Law: 73-18-7(18)(b)]~~

## NOTICE OF PROPOSED RULE

**TYPE OF FILING:** Repeal

<b>Rule or Section Number:</b>	<b>R651-213</b>	<b>Filing ID:</b> <b>56144</b>
--------------------------------	-----------------	-----------------------------------

## Agency Information

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	State Parks	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

## General Information

<b>2. Rule or section catchline:</b>
R651-213. Dealer Numbers and Registrations
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is moving to the Division of Outdoor Recreation.
<b>4. Summary of the new rule or change:</b>
This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

## Fiscal Information

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The repeal of this rule does not affect the state budget.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
<b>B) Local governments:</b>
The repeal of this rule does not affect local governments.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

**Regulatory Impact Table**

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

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

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

The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.

**Citation Information**

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

Subsection 73-18-7(18)(c)		
------------------------------	--	--

**Public Notice Information**

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	-----------------------------	--------------	------------

**R651. Natural Resources, Parks and Recreation.****~~R651-213. Dealer Numbers and Registrations.~~****~~R651-213-1. Dealer Numbers and Registrations.~~**

~~(1) Each person acting as a vessel dealer who has an established place of business and is engaged in the business of selling motorboats and/or sailboats shall make application to the Division, to obtain dealer numbers and registration decals.~~

~~(2) The application shall contain the following information:~~

~~\_\_\_\_\_ (a) the name of the business;~~

~~\_\_\_\_\_ (b) the business address;~~

~~\_\_\_\_\_ (c) the business owner's name (if the business is a corporation, the names of the principal officers of the corporation);~~

~~\_\_\_\_\_ (d) the type of vessels offered for sale; and~~

~~\_\_\_\_\_ (e) the manufacture line of vessels which the dealer holds franchise from the manufacturer to sell. Attached to the application shall be copies of the appropriate city, county, and state licenses required to do business in this state.~~

~~(3) Upon filing the application by the dealer, the Division may assign dealer numbers and registration decals to the dealer.~~

~~(4) Dealer numbers and registration decals are valid only when demonstrating, servicing or testing a motorboat or sailboat and the dealer or employee of the dealer is present during the demonstration.~~

~~(5) Every vessel dealer who obtains dealer numbers and registration decals is responsible to maintain the numbers and to control their use.~~

~~(6) Dealer numbers and registration decals are not valid on any vessel which is a rental or lease unit, or on a vessel which is not part of the dealer inventory and available for immediate sale.~~

~~(7) Dealer numbers and registration decals shall not be permanently attached to any vessel, but shall be mounted and displayed on a backing plate.~~

~~(8) If the Division has reasonable grounds to believe that a dealer has failed to comply with any of the above provisions, after notice to the dealer and a hearing, dealer numbers and registration decals may be suspended. Upon suspension, the dealer will surrender all of his dealer numbers and registration decals to the Division within 15 days.~~

~~(9) The dealer registration fee shall be \$25 per year.~~

~~(10) The dealer registration decals and cards shall expire annually on the last day of April.~~

**KEY: boating**

**Date of Last Change: June 9, 2014**

**Notice of Continuation: January 5, 2021**

**Authorizing, and Implemented or Interpreted Law: 73-18-7(18)(e)**

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	R651-214	Filing ID: 56145

Agency Information	
1. Department:	Natural Resources
Agency:	State Parks
Street address:	1594 W North Temple

<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

General Information
2. Rule or section catchline:
R651-214. Temporary Registration
3. Purpose of the new rule or reason for the change:
This rule is moving to the Division of Outdoor Recreation.
4. Summary of the new rule or change:
This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

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 Division of Outdoor Recreation and will have no effect on the Division of State Parks.
B) Local governments:
The repeal of this rule does not affect local governments.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
C) Small businesses ("small business" means a business employing 1-49 persons):
The repeal of this rule does not affect small businesses.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The repeal of this rule does not affect non-small businesses.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

**Regulatory Impact Table**

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

<b>Net Benefits</b>	<b>Fiscal</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
---------------------	---------------	------------	------------	------------

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

The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.

**Citation Information**

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

Subsection 73-18-7(3)		
--------------------------	--	--

**Public Notice Information**

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	-----------------------------	--------------	------------

**R651. Natural Resources, Parks and Recreation.**

~~**[R651-214. Temporary Registration.**~~

~~**R651-214.1. Temporary Registration.**~~

~~(1) A vessel dealer may apply to the Division of Motor Vehicles for temporary registrations to be used on motorboats or sailboats sold by his business.~~

~~(2) Each temporary registration will be valid for a period not to exceed 45 days from date of issue.~~

~~(3) A temporary registration will not be valid on any motorboat or sailboat held in the dealer's inventory for sale or any motorboat or sailboat not sold by the same dealer who issued the registration.~~

~~(4) A dealer shall not issue more than one temporary registration for any motorboat or sailboat.~~

~~(5) A dealer who obtains temporary registrations will be responsible for their issuance and is required to maintain records of each registration obtained and issued. Dealer records will contain a description of the vessel sold, the name and address of the purchaser, and the date issued.~~

~~(6) Temporary registration records kept by the dealer shall be made available for inspection and audit by authorized agents of the Division of Motor Vehicles during regular business hours.~~



## NOTICES OF PROPOSED RULES

~~(7) If the Division of Motor Vehicles has reasonable grounds to believe that a dealer has failed to comply with any of the above provisions, after notice to the dealer and a hearing, temporary registration issuance privileges may be canceled. Upon cancellation, the dealer will surrender all unissued temporary registrations to the Division of Motor Vehicles within 15 days.~~

~~(8) Temporary Operating Authority~~

~~(a) The division, or its authorized representatives, may grant a temporary permit to operate a vessel for which:~~

~~(i) application for registration has been made, or, in the case of a newly purchased vessel, will be made~~

~~(ii) evidence of ownership is provided; and~~

~~(iii) the proper fees have been paid.~~

~~(b) The temporary permit allows the vessel to be operated pending complete registration by displaying the temporary permit.~~

~~(c) If a vessel is operated on a temporary permit issued under this section, that vessel is subject to all other statutes, rules, and regulations intended to control the use and operation of vessels on the waterways.~~

~~(9) Relocation Permit~~

~~(a) Under rules made by the administrator, relocation permits may be issued by the division or its authorized representatives.~~

~~(b) Relocation permits allow use of the waterways for a time period not to exceed 96 hours.~~

~~(c) The division or its authorized representative may issue relocation permits without requiring a property tax clearance for the vessel on which the permit is to be used.~~

~~(d) Relocation permits allow for the purpose of testing for mechanical or seaworthiness of vessels.~~

~~(e) If a vessel is operated on a relocation permit under this section, that vessel is subject to all other statutes, rules, and regulations intended to control the use and operation of vessels on the waterways.~~

**KEY: boating**

**Date of Last Change: February 21, 2019**

**Notice of Continuation: January 5, 2021**

**Authorizing, and Implemented or Interpreted Law: 73-18-7(3)**

### NOTICE OF PROPOSED RULE

**TYPE OF FILING:** Repeal

<b>Rule or Section Number:</b>	<b>R651-215</b>	<b>Filing ID:</b> <b>56146</b>
--------------------------------	-----------------	-----------------------------------

### Agency Information

<b>1. Department:</b>	Natural Resources
<b>Agency:</b>	State Parks
<b>Street address:</b>	1594 W North Temple
<b>City, state and zip:</b>	Salt Lake City, UT 84116
<b>Mailing address:</b>	PO Box 146001
<b>City, state and zip:</b>	Salt Lake City, UT 84114

### 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:

R651-215. Personal Flotation Devices

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

This rule is moving to the Division of Outdoor Recreation.

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

This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

### 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 Division of Outdoor Recreation and will have no effect on the Division of State Parks.

##### B) Local governments:

The repeal of this rule does not affect local governments.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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



The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

**Regulatory Impact Table**

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

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

The Executive Director of the Department of 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 73-18-8

**Public Notice Information**

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	--------------------------	--------------	------------

**R651. Natural Resources, Parks and Recreation.**

**[R651-215. Personal Flotation Devices.**

**~~R651-215-1. Definitions.~~**

- ~~\_\_\_\_\_ (1) "PFD" means personal flotation device.~~
- ~~\_\_\_\_\_ (2) "Vessel length" is the measurement of the permanent part of the hull, from bow to stern, across the deck down the centerline, excluding sheer.~~
- ~~\_\_\_\_\_ (3) "Wear" means to have the PFD properly worn with all fasteners connected.~~
- ~~\_\_\_\_\_ (4) "Whitewater canoe" means a one or two person capacity hard hulled canoe designed for white water activities and is equipped with: flotation (e.g., factory end chambers or float bags) and thigh straps or retention devices to hold the operator(s) in the vessel if it rolls.~~

**~~R651-215-2. Type IV PFD Requirements.~~**

- ~~\_\_\_\_\_ No person shall operate or give permission for the operation of a vessel.~~
- ~~\_\_\_\_\_ (1) 16 feet or less than 40 feet in length unless there is at least one Type IV PFD on board.~~
- ~~\_\_\_\_\_ (2) 40 feet or more in length unless there is at least two Type IV PFDs on board, one shall be a minimum 18" ring buoy type with at least 30 feet of rope attached. Where reasonable, one shall be located near the bow and one shall be located near the stern of the vessel.~~

**R651-215-4. Types of Personal Flotation Devices.**

~~Type I – Off shore Life Jacket – provides the most buoyancy of any type of PFD. Designed to turn the most unconscious wearers to a face up position in the water. Effective for all waters, especially open, rough or remote waters where rescue may be delayed. Acceptable for use on all vessels.~~

~~Type II – Near Shore Buoyancy Vest – is designed to turn some unconscious wearers to a face up position in the water. Intended for calm, inland waters where there is a good chance of quick rescue.~~

~~Type III – Flotation Aid – Good for conscious users in calm, inland waters where there is good chance of quick rescue. Designed so conscious wearers can place themselves in a face up position in the water. The wearer may have to tilt their head back to avoid turning face down in the water.~~

~~Type IV – Throwable Device – Designed to be thrown to a person in the water and grasped and held by the user until rescued. Not designed to be worn.~~

~~Type V – Special Use Device – Intended for specific activities and may be carried instead of another PFD if used according to the approval conditions on its label.~~

**R651-215-5. Immediately Available and Readily Accessible.**

~~Type IV PFDs shall be immediately available; all other types of PFD shall be readily accessible, unless wearing is required.~~

**R651-215-6. Type V PFD Carried in Lieu.**

~~A Type V PFD may be carried or worn in lieu of another required PFD, but only if it is used according to the approval conditions on its label.~~

**R651-215-7. Whitewater River PFD Requirements.**

~~On whitewater rivers, as defined in Subsection R651-206-2 (1), Type I or Type III PFDs, are required and shall be used according to the approval conditions on their labels.~~

**R651-215-9. Required Wearing of PFDs.**

~~(1) An inflatable PFD may not be used to meet the requirements of this section.~~

~~(2) All persons on board a personal watercraft shall wear a PFD.~~

~~(3) The operator of a vessel under 19 feet in length shall require each passenger 12 years of age or younger to wear a PFD. This rule is also applicable to vessels 19 feet or more in length, except when the child is inside the cabin area.~~

~~(4) On every river, every person on board a vessel must wear a PFD, except PFDs may be loosened or removed by persons 13 years of age or older on designated flat water river section(s) as listed in Section R651-215-10.~~

**R651-215-10. Designated Flatwater River Sections.**

~~(1) On the Green River:~~

~~(a) from Red Creek Camp below Red Creek Rapids to the Indian Crossing Boat Ramp;~~

~~(b) from 100 yards below Taylor Flats Bridge to the Utah/Colorado state line in Browns Park;~~

~~(c) within Dinosaur National Monument, from the mouth of Whirlpool Canyon to the head of Split Mountain Gorge;~~

~~(d) from the mouth of Split Mountain to Jack Creek in Desolation Canyon; and~~

~~(e) from the Green River Diversion Dam below Gray Canyon to the confluence with the Colorado River.~~

~~(2) On the Colorado River:~~

~~(a) from the Colorado/Utah state line to the Westwater Ranger Station;~~

~~(b) from Big Hole Canyon in Westwater Canyon to Onion Creek;~~

~~(c) from Drinks Canyon, mile 70, to the confluence with the Green River; and~~

~~(d) after the last active rapid in Cataract Canyon.~~

~~(3) On the San Juan River, after the last active rapid prior to Lake Powell.~~

**R651-215-11. PFDs.**

~~All Personal Flotation Devices (PFDs) must be used according to the conditions or restrictions listed on the U.S. Coast Guard Approval Label.~~

**KEY: boating, parks**

**Date of Last Change: March 10, 2017**

**Notice of Continuation: January 5, 2021**

**Authorizing, and Implemented or Interpreted Law: 73-18-8]**

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** Repeal

<b>Rule or Section Number:</b>	<b>R651-216</b>	<b>Filing ID:</b> <b>56147</b>
--------------------------------	-----------------	-----------------------------------

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	State Parks	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

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

R651-216. Navigation Lights – Note: Figures 1 through 7 mentioned below are on file with the Utah Division of Parks and Recreation

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

This rule is moving to the Division of Outdoor Recreation.

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

This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

**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 Division of Outdoor Recreation and will have no effect on the Division of State Parks.

**B) Local governments:**

The repeal of this rule does not affect local governments.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

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

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

The Executive Director of the Department of 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:**

Subsection 73-18-8(2)		
--------------------------	--	--

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

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

# NOTICES OF PROPOSED RULES

<b>9. This rule change MAY become effective on:</b>	01/10/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

## Agency Authorization Information

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	--------------------------	--------------	------------

## R651. Natural Resources, Parks and Recreation.

~~[R651-216. Navigation Lights Note: Figures 1 through 7 mentioned below are on file with the Utah Division of Parks and Recreation.~~

### ~~R651-216 1. Navigation Lights On Motorboats Less Than 40 Feet.~~

~~Motorboats of less than 40 feet in length shall exhibit the navigation lights shown in either figure 1, 2, or 3.~~

### ~~R651-216 2. Navigation Lights On Motorboats 40 Feet or Greater in Length.~~

~~Motorboats 40 feet in length or greater in length shall exhibit the navigation lights shown in either figure 1 or 2.~~

### ~~R651-216 3. Navigation Lights On Sailboats.~~

~~Sailboats shall exhibit the navigation lights shown in either figure 4, 5, or 6.~~

### ~~R651-216 4. Navigation Lights On Sailboats Under Motor Power.~~

~~A sailboat under motor power shall exhibit the motorboat navigation light requirements.~~

### ~~R651-216 5. Navigation Lights On Manually Propelled Vessels.~~

~~A vessel manually propelled may exhibit the navigation lights required for sailboats or have ready at hand a flashlight or lighted lantern showing a white light which shall be displayed in sufficient time to prevent collision (figure 7).~~

### ~~R651-216 6. Displaying All Around White Anchor Light On Vessels At Anchor.~~

~~Vessels at anchor shall display an all round white anchor light unless anchored in a designated mooring area.~~

### ~~R651-216 7. Visible Range.~~

TABLE

LOCATION	CLASS A, 1, or 2	CLASS 3	DEGREES
Masthead light	2 miles	3 miles	225
All round light	2 miles	2 miles	360
Side lights	1 mile	2 miles	112.5
Stern light	2 miles	2 miles	135

### ~~R651-216 8. Use of Non-Navigational Lights.~~

~~Vessels may only display lights as outlined above, except: (a) a spotlight or other non-navigational light may be used intermittently to locate a hazard to navigation, or (b) non-navigational lights may be used during a federal or state permitted marine parade, or (c) a spotlight or other non-navigational light may~~

~~be used when actively engaged in fishing, bow fishing or scientific research on board vessels that are not in a navigational channel and that are being operated at a wakeless speed.~~

~~KEY: boating~~

~~Date of Last Change: July 8, 2013~~

~~Notice of Continuation: January 5, 2021~~

~~Authorizing, and Implemented or Interpreted Law: 73-18-8(2)~~

## NOTICE OF PROPOSED RULE

TYPE OF FILING: Repeal

<b>Rule or Section Number:</b>	<b>R651-217</b>	<b>Filing ID:</b>	<b>56163</b>
--------------------------------	-----------------	-------------------	--------------

## Agency Information

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	State Parks	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

## General Information

<b>2. Rule or section catchline:</b>
R651-217. Fire Extinguishers
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is moving to the Division of Outdoor Recreation.
<b>4. Summary of the new rule or change:</b>
This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

## Fiscal Information

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The repeal of this rule does not affect the state budget.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

**B) Local governments:**

The repeal of this rule does not affect local governments.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

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

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

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

The Executive Director of the Department of 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:**

Subsection 73-18-8(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.)

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

**9. This rule change MAY become effective on:**

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

## Agency Authorization Information

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	-----------------------------	--------------	------------

## R651. Natural Resources, Parks and Recreation.

~~R651-217. Fire Extinguishers.~~~~R651-217-1. Fire Extinguishers On Motorboats.~~

~~All motorboats, unless exempt, must have on board a readily accessible and approved fire extinguisher as specified in Section R651-217-2.~~

~~R651-217-2. Fire Extinguishers Required.~~

TABLE

LENGTH OF MOTORBOAT	NUMBER/SIZE
Less than 26 feet in length*	1/B I
26 feet to less than 40 feet in length	2/B I or 1/B II
40 feet to 65 feet in length	3/B I or 1/B I and 1/B II

\* If an outboard motorboat of open construction and not carrying passengers for hire, a fire extinguisher is not required (see Section R651-217-5).

\*\* If no engine compartment, fixed system not required and B II shall be placed near stern. If no galley, B II shall be placed midships.

~~R651-217-3. Fire Extinguisher Types.~~

TABLE

LISTING	TYPES:	CARBON DRY	HALON
	FOAM	DIOXIDE	CHEMICAL
B I	1.25 gal	4 lbs	2 lbs
B II	2.5 gal	15 lbs	10 lbs

~~R651-217-4. Engine Compartment Fire Extinguishers.~~

~~When the engine compartment is equipped with a fixed extinguishing system, one less B I extinguisher is required.~~

~~R651-217-5. Open Construction Exemptions.~~

~~An outboard motorboat is not considered "of open construction" if any one of the following conditions exist: closed compartment under thwarts (motor well) and seats where portable fuel tanks may be stored; double bottoms not sealed to the hull or which are not completely filled with flotation material; closed living spaces; closed stowage compartments in which combustible or flammable materials are stored; or permanently installed fuel tanks.~~

~~R651-217-6. Certifying, Recharging, or Servicing a Fire Extinguisher.~~

~~Each fire extinguisher, except a disposable fire extinguisher, must show evidence of being certified, recharged, or serviced once every five years, or a current standard as described in the National Fire Protection Agency Publication 10, by a qualified fire fighting equipment repair service.~~

~~R651-217-7. Disposable Fire Extinguishers.~~

~~(1) If a fire extinguisher is unable to be certified, recharged or serviced by a qualified fire fighting equipment repair service, it is considered disposable.~~

~~(2) The serviceability of a disposable fire extinguisher expires upon being discharged, loss of pressure or charge, or 12 years from the date of manufacture printed on the label or imprinted on the bottom of the fire extinguisher.~~

~~KEY: boating, parks~~

~~Date of Last Change: May 9, 2011~~

~~Notice of Continuation: January 5, 2021~~

~~Authorizing, and Implemented or Interpreted Law: 73-18-8(4)~~

## NOTICE OF PROPOSED RULE

TYPE OF FILING: Repeal

<b>Rule or Section Number:</b>	<b>R651-218</b>	<b>Filing ID:</b>
		<b>56148</b>

## Agency Information

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	State Parks	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

## General Information

<b>2. Rule or section catchline:</b>
R651-218. Carburetor Backfire Flame Control
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is moving to the Division of Outdoor Recreation.
<b>4. Summary of the new rule or change:</b>
This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

## Fiscal Information

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The repeal of this rule does not affect the state budget.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.



**B) Local governments:**

The repeal of this rule does not affect local governments.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

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

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

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

The Executive Director of the Department of 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:**

Subsection 73-18-8(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.)

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

**9. This rule change MAY become effective on:**

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

# NOTICES OF PROPOSED RULES

## Agency Authorization Information

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	-----------------------------	--------------	------------

## R651. Natural Resources, Parks and Recreation.

### ~~[R651-218. Carburetor Backfire Flame Control.~~

### ~~R651-218.1. Acceptable Means Of Backfire Flame Control.~~

~~(1) The following are acceptable means of backfire flame control:~~

~~(a) an approved flame arrestor secured to the air intake with flamtight connection;~~

~~(b) an approved engine air and fuel induction system; or~~

~~(c) an attachment to the carburetor or location of the engine air induction system where a flame caused by engine backfire will be dispersed outside the vessel in a manner that the flame will not endanger the vessel or passengers. All attachments shall be of metallic construction with flamtight connections and secured to withstand vibration, shock, and engine backfire.~~

~~KEY: boating~~

~~Date of Last Change: 1987~~

~~Notice of Continuation: January 5, 2021~~

~~Authorizing, and Implemented or Interpreted Law: 73-18-8(5)~~

## NOTICE OF PROPOSED RULE

**TYPE OF FILING:** Repeal

<b>Rule or Section Number:</b>	<b>R651-219</b>	<b>Filing ID:</b> <b>56149</b>
--------------------------------	-----------------	-----------------------------------

## Agency Information

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	State Parks	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

## General Information

<b>2. Rule or section catchline:</b>
R651-219. Additional Safety Equipment
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is moving to the Division of Outdoor Recreation.

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

This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

## 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 Division of Outdoor Recreation and will have no effect on the Division of State Parks.

#### B) Local governments:

The repeal of this rule does not affect local governments.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

**Regulatory Impact Table**

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

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

The Executive Director of the Department of 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:**

Subsection 73-18-8(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:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	-----------------------------	--------------	------------

**R651. Natural Resources, Parks and Recreation.**

~~**R651-219. Additional Safety Equipment.**~~

~~**R651-219-1. Sound Producing Device.**~~

~~(1) Vessels 16 feet to less than 40 feet in length shall have on board a means of making an efficient sound, horn or whistle, capable of a four to six second blast.~~

~~(2) Vessels 40 feet and greater in length shall have on board a horn or whistle and a bell. The horn or whistle shall be capable of a four to six second blast and audible for one half mile. The bell shall be designed to give a clear tone.~~

~~**R651-219-2. Bailing Device.**~~

~~All vessels, not of self bailing design, shall have on board an adequate bail bucket or be equipped with a mechanical means for pumping the bilge. For vessels 65 feet or greater in length, there shall be a bilge pump for each below deck compartment.~~

~~**R651-219-3. Spare Propulsion.**~~

~~Vessels less than 21 feet in length shall have on board at least one spare motor, paddle or oar capable of maneuvering the vessel when necessary. On rivers when low capacity vessels less than 16 feet in length are traveling in a group, the above requirement may be met by carrying one spare oar or paddle for every three vessels in the group. Paddles designed to be strapped to or worn on the hand meet this requirement.~~

~~**R651-219-4. Airboat Requirements.**~~

~~Airboats operated on the Great Salt Lake and adjacent refuges shall also have on board a compass and one of the following: approved flares, a strobe light, or other visual distress signal.~~

~~**R651-219-5. Equipment Good and Serviceable.**~~

~~All required safety equipment shall be in good and serviceable condition, and readily accessible, unless required to be immediately available.~~

~~**R651-219-6. Law Enforcement Vessels.**~~

~~No vessel operator except authorized law enforcement and emergency vessel operators may display red or blue flashing lights or sound a siren on any waters of this state.~~

## NOTICES OF PROPOSED RULES

### **~~R651-219-7. Equipment Exemptions.~~**

~~(1) Sailboards, float tubes, standup paddlecraft, and personal watercraft are exempt from the following rules: Section R651-219-2 bail buckets; and Section R651-219-3 spare propulsion.~~

~~(2) Vessels owned by the Lagoon Corporation and operated by its employees or customers under the controlled use and confines of the Lagoon Amusement Park waterways are exempt from the following Sections: R651-215-9(3), R651-219-2, and R651-219-3.~~

~~(3) Vessels owned by the Salt Lake Airport Hilton Inn and operated by its employees or customers under the controlled use and confines of the Salt Lake Airport Hilton Inn waterways are exempt from the following sections: R651-219-2 and R651-219-3.~~

~~(4) Racing vessels participating in a sanctioned race may be exempted from certain equipment requirements by the division upon written request to the division. The equipment exemption shall only be in effect the day before and the day of the race if conditions of the exemption are met.~~

~~(5) Non-standard, manually propelled vessels such as air mattresses and inner tubes are required to be compliant with life jacket and equipment requirements when: (a) being used on any river, (b) being used over 50 feet from shore, except in a marked swimming area.~~

**~~KEY: boating, parks, life jackets~~**

**~~Date of Last Change: July 23, 2012~~**

**~~Notice of Continuation: January 5, 2021~~**

**~~Authorizing, and Implemented or Interpreted Law: 73-18-8(6)~~**

### **NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** Repeal

<b>Rule or Section Number:</b>	<b>R651-220</b>	<b>Filing ID:</b> <b>56150</b>
--------------------------------	-----------------	-----------------------------------

### **Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	State Parks	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

### **General Information**

<b>2. Rule or section catchline:</b>
R651-220. Registration and Numbering Exemptions

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

This rule is moving to the Division of Outdoor Recreation.

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

This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

### **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 Division of Outdoor Recreation and will have no effect on the Division of State Parks.

##### **B) Local governments:**

The repeal of this rule does not affect local governments.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

**Regulatory Impact Table**

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

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

The Executive Director of the Department of 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:**

Subsection 73-18-9(5)		
--------------------------	--	--

**Public Notice Information**

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	-----------------------------	--------------	------------

**R651. Natural Resources, Parks and Recreation.**

~~[R651-220. Registration and Numbering Exemptions.~~

~~R651-220-1. Racing Vessel Exemptions.~~

~~Racing vessels owned by nonresidents, if not required to be registered and numbered in their resident state, are exempt from the registration and numbering requirements of this chapter. This exemption is valid only at the race site, on the day before and the day of a division authorized race.~~

~~R651-220-2. Sailboard Exemption.~~

~~A sailboard is exempt from the registration and numbering requirements of this chapter.~~

~~KEY: boating~~

~~Date of Last Change: 1987~~

~~Notice of Continuation: January 5, 2021~~

~~Authorizing, and Implemented or Interpreted Law: 73-18-9(5)~~

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** Repeal

<b>Rule or Section Number:</b>	<b>R651-221</b>	<b>Filing ID:</b> <b>56151</b>
--------------------------------	-----------------	-----------------------------------

**Agency Information**

<b>1. Department:</b>	Natural Resources
<b>Agency:</b>	State Parks
<b>Street address:</b>	1594 W North Temple
<b>City, state and zip:</b>	Salt Lake City, UT 84116
<b>Mailing address:</b>	PO Box 146001
<b>City, state and zip:</b>	Salt Lake City, UT 84114

<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R651-221. Boat Liveries – Boat Rental Companies
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is moving to the Division of Outdoor Recreation.
<b>4. Summary of the new rule or change:</b>
This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The repeal of this rule does not affect the state budget.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
<b>B) Local governments:</b>
The repeal of this rule does not affect local governments.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
The repeal of this rule does not affect small businesses.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
The repeal of this rule does not affect non-small businesses.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

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



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

The Executive Director of the Department of 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:**

Subsection 73-18-10(2)		
---------------------------	--	--

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	01/10/2024
---	------------

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	-----------------------------	--------------	------------

**R651. Natural Resources, Parks and Recreation.**  
~~[R651-221. Boat Liveries—Boat Rental Companies.~~  
~~R651-221-1. Boat Livery Responsibilities.~~

~~(1) Each boat livery shall register with the Division annually and pay the appropriate fee, prior to the commencement of the operation.~~

~~(a) The annual boat livery registration requires the following:~~

~~(i) The completion of the prescribed application form;~~  
~~(ii) Evidence of a valid business license; and~~  
~~(iii) Payment of the prescribed fee.~~

~~(b) The annual boat livery registration fee shall be:~~

~~(i) \$50 for boat liveries with up to 25 vessels in its fleet;~~  
~~(ii) \$75 for boat liveries with up to 50 vessels in its fleet;~~  
~~(iii) \$100 for boat liveries with more than 50 vessels in its fleet.~~

~~(c) A boat livery that is registered with the Division as an outfitting company shall not pay the boat livery registration fee.~~

~~(d) The annual boat livery registration will be required beginning January 1, 2008.~~

~~(2) The name of the boat livery shall be displayed on the outward superstructure of each vessel in the boat livery's fleet. If another governmental agency prohibits the display of a livery's name on the exterior of a vessel, the name shall be displayed in a visible manner that does not violate the agency's requirements.~~

~~(3) A boat livery shall produce a lease or rental agreement for each vessel leased or rented from its fleet.~~

~~(a) The lease or rental agreement shall contain the following information and shall be signed by the owner of the livery or his representative and by the person leasing or renting the vessel.~~

~~(i) The name of the person leasing or renting the vessel;~~

~~(ii) The vessel's assigned bow number, hull identification number, or other number if the vessel is not powered by a motor or sail;~~

~~(iii) A description of the vessel's make, model, color and length;~~

~~(iv) The period of time for which the vessel is leased or rented; and~~

~~(v) A check off list of the required safety equipment provided on the vessel.~~

~~(b) For motorboats and sailboats, a copy of the lease or rental agreement shall be carried on board.~~

~~(c) For non-motorized vessels rented or leased in a group, one rental agreement is required.~~

~~(4) Upon request of an agent of the Division, the owner of a boat livery or his representative shall provide the Division with a copy of a lease or rental agreement.~~

~~(5) The certificate of registration for a leased or rented vessel may be retained on shore by the boat livery.~~

~~(6) A recreational "equipment timeshare" business which leases or rents vessels for consideration is a boat livery.~~

~~(7) A boat livery shall have each vessel in its fleet that is equipped with a 50 hp or greater motor covered with liability insurance as required in UCA 73-18c 101 through 308, and UCA 31A-22-1501 through 1504.~~

**KEY: boating, parks**

**Date of Last Change: May 9, 2011**

**Notice of Continuation: January 5, 2021**

**Authorizing, and Implemented or Interpreted Law: 73-18-10(2)**

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** Repeal

<b>Rule or Section Number:</b>	<b>R651-222</b>	<b>Filing ID:</b> <b>56152</b>
--------------------------------	-----------------	-----------------------------------

**Agency Information**

<b>1. Department:</b>	Natural Resources
<b>Agency:</b>	State Parks
<b>Street address:</b>	1594 W North Temple
<b>City, state and zip:</b>	Salt Lake City, UT 84116
<b>Mailing address:</b>	PO Box 146001
<b>City, state and zip:</b>	Salt Lake City, UT 84114

<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R651-222. Muffling Requirements
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is moving to the Division of Outdoor Recreation.
<b>4. Summary of the new rule or change:</b>
This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The repeal of this rule does not affect the state budget.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
<b>B) Local governments:</b>
The repeal of this rule does not affect local governments.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
The repeal of this rule does not affect small businesses.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
The repeal of this rule does not affect non-small businesses.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

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

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

The Executive Director of the Department of 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 73-18-11		
------------------	--	--

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	01/10/2024
---	------------

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	--------------------------	--------------	------------

**R651. Natural Resources, Parks and Recreation.****[R651-222. Muffling Requirements.****R651-222-1. Mufflers Required.**

~~Every motorboat operated upon the waters of this State shall at all time be equipped with a muffler or a muffler system in good working order and in constant operation and effectively installed to prevent any excessive or unusual noise.~~

**R651-222-2. Muffler Defined.**

~~"Muffler" means a sound suppression device or system designed and installed to abate the sound of exhaust gases emitted from an internal combustion engine and prevents excessive or unusual noise.~~

**R651-222-3. Maximum Sound Level SAE J2005.**

~~No person shall operate or give permission for the operation of any motorboat upon the waters of this state in such a manner as to exceed the following noise levels:~~

~~(1) For engines manufactured before January 1, 1993, a noise level of 90dB(A) when subjected to a stationary sound level test as prescribed by test SAE J2005; or~~

~~(2) for engines manufactured on or after January 1, 1993, a noise level of 88dB(A) when subjected to a stationary sound level test as prescribed by test SAE J2005.~~

**R651-222-4. Maximum Sound Level SAE J1970.**

~~After January 1, 1992, no person shall operate a motorboat on the waters of this state in such a manner as to exceed a noise level of 75dB(A) measured as specified in test SAE J1970. Provided, that such measurement shall not preclude a stationary sound level test as prescribed by SAE J2005.~~

**R651-222-5. Muffler Bypass or Alteration Prohibited.**

~~(1) No person shall operate or give permission for the operation of any motorboat upon the waters of this state that is equipped with an altered muffler, muffler cutout, muffler bypass, or other device designed or installed so that it can be used to continually or intermittently bypass; or reduce or eliminate the effectiveness of any muffler or muffler system installed on a motorboat.~~

~~(2) Rule R651-222-5 (1) shall not apply to a motorboat equipped with a muffler cutout, muffler bypass, or other device designed or installed so that it can be used to continually or intermittently bypass; or reduce or eliminate the effectiveness of any muffler or muffler system installed on a motorboat, (a) if the mechanism has been permanently disconnected or made inoperable, where it cannot be operated in the manner described in Rule R651-222-5 (1), or (b) the muffling systems operated by the bypass meet the requirements in R651-222-3.~~

**R651-222-6. Muffler Removal Prohibited.**

~~No person shall remove, alter, or otherwise modify in any way a muffler or muffler system on a motorboat, in a manner that will prevent the motorboat from complying with rule R651-222-3.~~

**R651-222-7. Mufflers Required on Motorboats Sold.**

~~(1) No person shall manufacture, sell, or offer for sale any motorboat:~~

~~(a) that is not equipped with a muffler or muffler system; or~~

~~(b) that does not comply with rule R651-222-3.~~

~~(2) This rule shall not apply to motorboats designed, manufactured and sold for the sole purpose of competing in racing events only and for no other purpose. Any motorboat exempted under this rule shall be documented as such in the sales agreement and shall be formally acknowledged by signature of the buyer and seller and copies of the agreement shall be maintained by both parties. A copy of the agreement shall be kept on board whenever the motorboat is operated. Any motorboat sold under this exemption may only be operated on the waters of this State in accordance with rule R651-222-8.~~

**R651-222-8. Muffler Exemptions.**

~~Except as outlined in rule R651-222-7, the operational provisions of this rule shall not apply to:~~

~~(1) motorboats registered in and actually participating in a racing event authorized by the Division or scheduled tuneup periods prior to the racing event; or~~

~~(2) to a motorboat being operated by a boat or engine manufacturer for the purpose of testing and/or development and the testing has been authorized by the Division.~~

**R651-222-9. Enforcement.**

~~A peace officer who has reason to believe that a motorboat is being operated in excess of the noise levels established in rule R651-222-3, may direct the operator of the motorboat to submit the motorboat to an on-site test to measure the noise level. If the motorboat exceeds the established decibel level, in addition to issuing~~

## NOTICES OF PROPOSED RULES

a summons, the officer may direct the operator to return to the point of embarkation and prohibit operation of the motorboat until the motorboat meets the established decibel level.

**KEY:** boating, motorboat noise

**Date of Last Change:** October 18, 2005

**Notice of Continuation:** January 5, 2021

**Authorizing, and Implemented or Interpreted Law:** 73-18-11

### NOTICE OF PROPOSED RULE

**TYPE OF FILING:** Repeal

<b>Rule or Section Number:</b>	<b>R651-223</b>	<b>Filing ID:</b> <b>56153</b>
--------------------------------	-----------------	-----------------------------------

### Agency Information

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	State Parks	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

### General Information

<b>2. Rule or section catchline:</b>
R651-223. Vessel Accident Reporting
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is moving to the Division of Outdoor Recreation.
<b>4. Summary of the new rule or change:</b>
This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

### Fiscal Information

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The repeal of this rule does not affect the state budget.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

### B) Local governments:

The repeal of this rule does not affect local governments.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

#### Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

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

**Citation Information**

**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 73-18-13		
------------------	--	--

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	01/10/2024
---	------------

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	--------------------------	--------------	------------

**R651. Natural Resources, Parks and Recreation.****~~R651-223. Vessel Accident Reporting.~~****~~R651-223-1. Notification Required.~~**

~~An operator shall immediately and by the quickest means of communication available notify the nearest state park ranger or other law enforcement officer of an accident that involves a vessel or its equipment when one of the following occurs: a person dies or disappears from a vessel under circumstances that indicate death; a person is injured and receives medical treatment beyond first aid; or property is damaged in excess of \$2,000.~~

~~This notification shall include:~~

- ~~(a) the date, time, and location of the occurrence;~~
- ~~(b) the name of each person who died or disappeared;~~
- ~~(c) the assigned number of the vessel; and~~
- ~~(d) the name and address of the owner and operator.~~

**~~R651-223-2. Other Notification.~~**

~~If the operator cannot provide this notification, then another person on board shall make the notification required in rule R651-223-1.~~

**~~R651-223-3. Report Required.~~**

~~The operator, owner, or other person on board shall submit a completed and signed Owner/Operator Boating Accident Report (PR-53A) to the division within 10 days of the accident.~~

**KEY: ~~accidents, boating~~**

**Date of Last Change: ~~August 15, 2002~~**

**Notice of Continuation: ~~December 11, 2019~~**

**Authorizing, and Implemented or Interpreted Law: ~~73-18-13~~**

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** Repeal

<b>Rule or Section Number:</b>	<b>R651-224</b>	<b>Filing ID:</b>
		<b>56154</b>

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	State Parks	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R651-224. Towed Devices



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

This rule is moving to the Division of Outdoor Recreation.

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

This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

**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 Division of Outdoor Recreation and will have no effect on the Division of State Parks.

**B) Local governments:**

The repeal of this rule does not affect local governments.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

**Regulatory Impact Table**

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

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

The Executive Director of the Department of 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 73-18-15		
------------------	--	--



**Public Notice Information**

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	-----------------------------	--------------	------------

**R651. Natural Resources, Parks and Recreation.****[R651-224. Towed Devices.****~~R651-224.1. Observer Required.~~**

~~The operator of a vessel which is towing a person on water skis or other devices shall be responsible for maintaining a safe course with proper lookout. Except as provided in 73-18-16, UCA, the progress of the person under tow shall be reported to the vessel operator by the observer.~~

**~~R651-224.2. Unlawful Methods of Towing.~~**

~~No person shall operate a motorboat or have the engine of a motorboat run idle while a person is occupying or holding onto the swim platform, swim deck, swim step or swim ladder of the motorboat or while a person is being towed in a non-standing position within 20 feet of the vessel. These restrictions do not apply when a person is occupying the swim platform, swim deck, swim step or swim ladder while assisting with the docking or departure of the motorboat, while exiting or entering the motorboat, or when a motorboat is engaged in law enforcement activity.~~

**~~R651-224.3. Flag Required.~~**

~~Except as provided in 73-18-16, UCA the operator of a vessel engaged in a towed watersport shall be responsible for a flag to be displayed by the observer in a visible manner to other boaters in the area only when a person to be towed is in the water, either preparing to be towed or finishing a tow. The flag shall be international orange at least 12 inches square and mounted on a handle.~~

**~~R651-224.4. PFD to be Worn.~~**

~~Except as provided in 73-18-16, UCA the operator of a vessel which is towing a person(s) on water skis or other devices shall require each person who is water skiing or using other devices to wear a United States Coast Guard approved personal flotation device (PFD), except an inflatable PFD may not be used.~~

**~~R651-224.5. Capacity of Towing Vessel.~~**

~~The operator of a vessel which is towing a person(s) on water skis or other devices shall use a vessel with sufficient carrying~~

~~capacity, as defined by the manufacturer, for the occupant(s) onboard and the person(s) being towed.~~

**~~R651-224.6. No Towing in Marinas.~~**

~~The operator of a vessel shall not tow a person(s) in or on any towed device within a wakeless area surrounding a developed marina or launch ramp.~~

**KEY:** ~~boating, water skiing~~

**Date of Last Change:** ~~April 12, 2013~~

**Notice of Continuation:** ~~January 5, 2021~~

**Authorizing, and Implemented or Interpreted Law:** ~~73-18-15]~~

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** Repeal

<b>Rule or Section Number:</b>	<b>R651-226</b>	<b>Filing ID:</b> <b>56155</b>
--------------------------------	-----------------	-----------------------------------

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	State Parks	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R651-226. Regattas and Races
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is moving to the Division of Outdoor Recreation.
<b>4. Summary of the new rule or change:</b>
This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The repeal of this rule does not affect the state budget.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

**B) Local governments:**

The repeal of this rule does not affect local governments.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

**Regulatory Impact Table**

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0

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

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

The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.

**Citation Information**

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

Section 73-18-16		
------------------	--	--

**Public Notice Information**

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

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	-----------------------------	--------------	------------

**R651. Natural Resources, Parks and Recreation.**~~[R651-226. Regattas and Races.~~~~**R651-226-1. Authorization To Hold A Marine Event.**~~

~~Authorization to hold a marine event shall be obtained from the division as well as from any other person or agency who owns or administers the land adjacent to the marine event.~~

~~**R651-226-2. Safety Vessels Permitted.**~~

~~Designated safety vessels associated with permanent, long-term or short term human powered marine events are permitted on any waterway zoned by the State Parks Board as wakeless or motor restricted and within any area marked by waterway markers as a controlled area under the following conditions:~~

- ~~(1) The person responsible for the event has permission from the managing agency to hold the event.~~
- ~~(2) The safety vessels used shall be:~~
- ~~(a) designed and operated to create a minimal wake.~~
- ~~(b) operated by representatives of the person responsible for the event.~~
- ~~(c) operated only for the coaching, support and safety of the event.~~

~~**KEY: boating**~~~~**Date of Last Change: July 23, 2012**~~~~**Notice of Continuation: January 5, 2021**~~~~**Authorizing, and Implemented or Interpreted Law: 73-18-16]**~~**NOTICE OF PROPOSED RULE****TYPE OF FILING:** Repeal

<b>Rule or Section Number:</b>	<b>R651-401</b>	<b>Filing ID:</b> <b>56157</b>
--------------------------------	-----------------	-----------------------------------

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	State Parks	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

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

R651-401. Off-Highway Vehicle and Registration Stickers

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

This rule is moving to the Division of Outdoor Recreation.

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

This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

**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 Division of Outdoor Recreation and will have no effect on the Division of State Parks.

**B) Local governments:**

The repeal of this rule does not affect local governments.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

**Regulatory Impact Table**

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

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

The Executive Director of the Department of 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:**

Subsection 41-22-3(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:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	-----------------------------	--------------	------------

**R651. Natural Resources, Parks and Recreation.**

**[R651-401. Off Highway Vehicle and Registration Stickers. R651-401-1. Stickers.**

Upon receipt of the application in the approved form, the Division of Motor Vehicles shall issue annual registration stickers which shall be displayed on the off highway vehicle as follows: on snowmobiles, a sticker shall be mounted the left side of the hood, tunnel or pan; on motorcycles, a sticker shall be mounted on the left fork, or on the left side body plastic; and on all terrain type I and type II vehicles, stickers shall be mounted on the rear of the vehicle. Vehicle types are defined in 41-22-2. In all instances, sticker shall be mounted in a visible location.

**KEY: off highway vehicles**

**Date of Last Change: July 23, 2012**

**Notice of Continuation: January 5, 2021**

**Authorizing, and Implemented or Interpreted Law: 41-22-3(4)**

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** Repeal

<b>Rule or Section Number:</b>	<b>R651-405</b>	<b>Filing ID:</b> <b>56158</b>
--------------------------------	-----------------	-----------------------------------

**Agency Information**

<b>1. Department:</b>	Natural Resources
<b>Agency:</b>	State Parks
<b>Street address:</b>	1594 W North Temple

<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R651-405. Off-Highway Implement of Husbandry Sticker Fee
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is moving to the Division of Outdoor Recreation.
<b>4. Summary of the new rule or change:</b>
This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The repeal of this rule does not affect the state budget.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
<b>B) Local governments:</b>
The repeal of this rule does not affect local governments.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
The repeal of this rule does not affect small businesses.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

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

## NOTICES OF PROPOSED RULES

<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.			

## Citation Information

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Subsection 41-22-5.5(1)		

## Public Notice Information

<b>8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)</b>	
<b>A) Comments will be accepted until:</b>	01/03/2024

<b>9. This rule change MAY become effective on:</b>	01/10/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

## Agency Authorization Information

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	-----------------------------	--------------	------------

**R651. Natural Resources, Parks and Recreation.**  
~~**R651-405. Off Highway Implement of Husbandry Sticker Fee.**~~  
~~**R651-405-1. Off Highway Implement of Sticker Fee.**~~  
~~The sticker fee shall be \$10.~~

~~**R651-405-2. Off Highway Implement of Husbandry Sticker Display.**~~  
~~For all off highway vehicle types, the implementation of husbandry stickers shall be permanently and visibly affixed on the left side of the machine. In all instances, the sticker shall be mounted in a visible location.~~

~~**KEY: off highway vehicles**~~  
~~**Date of Last Change: November 1, 2003**~~  
~~**Notice of Continuation: January 5, 2021**~~  
~~**Authorizing, and Implemented or Interpreted Law: 41-22-5.5(1)**~~

<b>NOTICE OF PROPOSED RULE</b>		
<b>TYPE OF FILING:</b> Repeal		
<b>Rule or Section Number:</b>	<b>R651-406</b>	<b>Filing ID:</b> <b>56159</b>

## Agency Information

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	State Parks	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

## General Information

<b>2. Rule or section catchline:</b>
R651-406. Off-Highway Vehicle Registration Fees
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is moving to the Division of Outdoor Recreation.
<b>4. Summary of the new rule or change:</b>
This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

## Fiscal Information

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The repeal of this rule does not affect the state budget.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
<b>B) Local governments:</b>
The repeal of this rule does not affect local governments.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
The repeal of this rule does not affect small businesses.



This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

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

**Regulatory Impact Table**

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

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

**H) Department head comments on fiscal impact and approval of regulatory impact analysis:**

The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.

**Citation Information**

**6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 41-22-8		
-----------------	--	--

**Public Notice Information**

**8. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	--------------------------	--------------	------------

**R651. Natural Resources, Parks and Recreation.**

~~[R651-406. Off Highway Vehicle Registration Fees.~~

~~R651-406 1. Annual Registration Fee.~~

~~(1) The annual All terrain Vehicle and off highway motorcycle registration fee is \$35. The annual snowmobile registration fee is \$22. The annual street legal all terrain fee is \$72.~~

~~(2) An annual fee of \$2 shall be collected to fund the off highway vehicle safety and education program in addition to each off highway vehicle registration.~~

# NOTICES OF PROPOSED RULES

## ~~R651-406-2. Fee For Duplicate Registration.~~

~~The fee for a duplicate certificate of registration is \$3.~~

## ~~R651-406-3. Fee For Duplicate Numbered Stickers.~~

~~The fee for duplicate numbered stickers is \$5.~~

~~KEY: off-highway vehicles~~

~~Date of Last Change: January 24, 2019~~

~~Notice of Continuation: January 5, 2021~~

~~Authorizing, and Implemented or Interpreted Law: 41-22-8]~~

### NOTICE OF PROPOSED RULE

TYPE OF FILING: Repeal

Rule or Section Number:	R651-409	Filing ID: 56160
-------------------------	----------	------------------

### 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	
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:
R651-409. Minimum Amounts of Liability Insurance Coverage for an Organized Practice or Sanctioned Race
3. Purpose of the new rule or reason for the change:
This rule is moving to the Division of Outdoor Recreation.
4. Summary of the new rule or change:
This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

### 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 Division of Outdoor Recreation and will have no effect on the Division of State Parks.

### B) Local governments:

The repeal of this rule does not affect local governments.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

C) Small businesses ("small business" means a business employing 1-49 persons):

The repeal of this rule does not affect small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

### Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.			

**Citation Information**

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Section 79-4-501	Subsection 41-22-29(1)(a)	Subsection 41-22-29(1)(b)

**Public Notice Information**

<b>8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)</b>	
<b>A) Comments will be accepted until:</b>	01/03/2024
<b>9. This rule change MAY become effective on:</b>	01/10/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	--------------------------	--------------	------------

**R651. Natural Resources, Parks and Recreation.**

~~[R651-409. Minimum Amounts of Liability Insurance Coverage for an Organized Practice or Sanctioned Race.~~

**~~R651-409-1. Insurance Policy Requirements Maintained.~~**

~~The insurance specifications for Subsections 41-22-29(1)(a) and (b) for an organization conducting "organized practices" or "sanctioned races" shall be a continuously maintained policy fully covering insurable responsibilities. This insurance policy shall be obtained from a reliable insurance company that is authorized to do business in Utah and is at all times A.M. Best Company rated "A" or better with a financial size category of XII or larger. The policy shall include Comprehensive General Liability Insurance, including coverage for premises and operations, products, combined single limit per occurrence, meeting the minimum insurance requirements set by the Utah Division of Risk Management, which shall be designated as applying only to the organization conducted under Subsections 41-22-29(1)(a) and (b) U.C.A. 1953. If this coverage is written on a claims-made basis, the certificate of insurance shall so indicate. The policy shall also contain an extended-reporting-period provision or similar "tail" provision that keeps full insurance in force for claims reported up to three (3) years after the organization ceases activities covered by the policy. The insurance policy shall be endorsed to add all persons providing services or who own lands affected by the activities conducted.~~

~~KEY: parks, liability, insurance~~

~~Date of Last Change: June 9, 2014~~

~~Notice of Continuation: December 11, 2019~~

~~Authorizing, and Implemented or Interpreted Law: 79-4-501; 41-22-29(1)(a); 41-22-29(1)(b)]~~

**NOTICE OF PROPOSED RULE**

<b>TYPE OF FILING:</b> Repeal		
<b>Rule or Section Number:</b>	<b>R651-410</b>	<b>Filing ID:</b> 56161

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	State Parks	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
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:

R651-410. Off-Highway Vehicle Safety Equipment

#### 3. Purpose of the new rule or reason for the change:

This rule is moving to the Division of Outdoor Recreation.

#### 4. Summary of the new rule or change:

This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

### 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 Division of Outdoor Recreation and will have no effect on the Division of State Parks.

##### B) Local governments:

The repeal of this rule does not affect local governments.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

##### C) Small businesses ("small business" means a business employing 1-49 persons):

The repeal of this rule does not affect small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

##### D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

##### E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

#### F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

#### G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

##### Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

#### H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.

**Citation Information**

**6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 41-22-31	Section 41-22-32	Section 41-22-33
------------------	------------------	------------------

**Public Notice Information**

**8. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	01/10/2024
---	------------

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	-----------------------------	--------------	------------

**R651. Natural Resources, Parks and Recreation.****[R651-410. Off Highway Vehicle Safety Equipment.****~~R651-410-1. Safety Flags Required on Designated Sand Dunes.~~**

~~Safety flags that meet the requirements of UCA Section 41-22-10.7, are required to be mounted on OHV's at Coral Pink Sand Dunes, Big Sand Mountain Recreation Management Area, and the Little Sahara Special Recreation Management Area, which areas have boundaries as defined below:~~

~~**A. Coral Pink Sand Dunes:**~~

~~Beginning at the junction of Hancock Road and San Springs Road, thence west along Hancock Road to Yellowjacket Road; thence south along Yellowjacket Road to Coral Pink Sand Dunes State Park South Boundary Road. Thence south along the South Boundary Road to the Utah-Arizona state line. Thence east along the Utah-Arizona stateline to the east side of Moquith Mountain. Thence north along the east side of Moquith Mountain to Sand Springs Road. Thence north along Sand Springs Road to the junction of Hancock Road and Sand Springs Road.~~

~~**B. Big Sand Mountain Special Recreation Management Area** Sand dunes located within that portion of Washington County bounded by the following: Starting at the intersection of the county-maintained Washington Dam road and the main jeep road that runs east of and parallel to Warner Ridge. Thence south along the main jeep road to its intersection with the Warner Valley road. Thence south and east along the Warner Valley road to its intersection with the Hurricane Cliffs road. Thence north along the Hurricane Cliffs road to the north township line of Township 43 South, Salt Lake Meridian. Thence west along the township line and public land boundary to the southeast corner of Section 31, Township 42 South, Range 13 West, Salt Lake Meridian. Thence north along the section line and thereafter following the boundary of the proposed San Hollow Recreation Area to the principal OHV access road off the northwest corner of the recreation area. Thence northwest along the~~

~~principal OHV access road to the Washington Dam road. Thence west along the Washington Dam road to the beginning.~~

~~**C. Little Sahara Special Recreation Management Area** Sand dunes located within that portion of Juab County lying within the fenced boundary of the Little Sahara Recreation area.~~

**KEY:** parks, off-highway vehicles

**Date of Last Change:** May 19, 2003

**Notice of Continuation:** June 24, 2022

**Authorizing, and Implemented or Interpreted Law:** ~~41-22-31; 41-22-32; 41-22-33~~

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** Repeal

<b>Rule or Section Number:</b>	<b>R651-412</b>	<b>Filing ID:</b> <b>56162</b>
--------------------------------	-----------------	-----------------------------------

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	State Parks	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information****2. Rule or section catchline:**

R651-412. Curriculum Standards for OHV Education Programs Offered by Non-Division Entities

**3. Purpose of the new rule or reason for the change:**

This rule is moving to the Division of Outdoor Recreation.

**4. Summary of the new rule or change:**

This rule is being repealed in its entirety and moved to the Division of Outdoor Recreation rules (Title R650).

**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 Division of Outdoor Recreation and will have no effect on the Division of State Parks.

**B) Local governments:**

The repeal of this rule does not affect local governments.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

**C) Small businesses** ("small business" means a business employing 1-49 persons):

The repeal of this rule does not affect small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

**G) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

**Regulatory Impact Table**

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head comments on fiscal impact and approval of regulatory impact analysis:**

The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.

**Citation Information**

**6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 41-22-30

**Public Notice Information**

**8. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 01/03/2024

**9. This rule change MAY become effective on:** 01/10/2024

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.



**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	08/10/2023
---	-----------------------------	--------------	------------

**R651. Natural Resources, Parks and Recreation.**

~~[R651-412. Curriculum Standards for OHV Education Programs Offered by Non-Division Entities.~~

**R651-412-1. Rulemaking Authority.**

~~Section 41-22-31 UCA states that the Board shall develop curriculum standards for a comprehensive OHV education program designed to instill the necessary knowledge, attitudes, skills necessary for safe OHV operation, and that the Division shall cooperate with the appropriate public and private organizations in the implementation of this program.~~

**R651-412-2. Course Approval Process.**

~~Outside providers wishing to have OHV education courses approved by the Division as adequate for meeting Utah's OHV education standard shall submit a copy of their proposed curricula to the for evaluation. The Division shall evaluate the proposed curricula against the standard specified in this rule and shall issue a letter of approval to providers who present curriculum packages that meet the standard.~~

**R651-412-3. Course Completion.**

~~Individuals who complete a training course approved under this rule shall be issued an OHV Education Certificate in accordance with 41-22-31 UCA.~~

**R651-412-4. Curriculum Standards.**

~~At a minimum, all courses approved by the Division shall provide the following course content and shall be presented at a level appropriate for the average fourth grade student. The method of course content delivery is not specified.~~

- ~~(a) Description of OHV riding in Utah.~~
- ~~(b) Utah State Parks regulatory responsibilities.~~
- ~~(c) OHV terminology including, but not limited, to: throttle, fuel shut off valve, brakes, shift lever, engine stop switch, choke, spark arrestor/muffler, headlights, engine, footrest, ignition switch.~~
- ~~(d) Utah State Laws.~~
- ~~(e) Riding positions, turning and stopping.~~
- ~~(f) Hypothermia, wind chill and cold weather survival.~~
- ~~(g) Riding on different types of terrain.~~
- ~~(h) Pre-ride inspections.~~
- ~~(i) Towing a trailer.~~
- ~~(ii) Crossing roads and highways.~~
- ~~(iii) Dangers of drugs and alcohol.~~
- ~~(i) Ethics, responsible riding and trail etiquette.~~
- ~~(j) Tread Lightly~~
- ~~(k) Proper safety equipment.~~
- ~~(l) Snowmobile courses will also include avalanche safety information.~~
- ~~(m) Any hands-on training provided by an authorized provider shall be conducted in accordance with and all applicable state and federal law.~~

**KEY:** OHV education standards, parks

**Date of Last Change:** September 21, 2017

**Notice of Continuation:** December 11, 2019

**Authorizing, and Implemented or Interpreted Law:** 41-22-30]

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** Repeal

<b>Rule or Section Number:</b>	<b>R651-801</b>	<b>Filing ID:</b> <b>56189</b>
--------------------------------	-----------------	-----------------------------------

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	State Parks	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R651-801. Swimming Prohibited
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is moving to the Division of Outdoor Recreation and will be incorporated into their new Rule R650-227 that they are filing.
(EDITOR'S NOTE: The proposed new Rule R650-227 is under ID 56102 in this issue, December 1, 2023, of the Bulletin.)
<b>4. Summary of the new rule or change:</b>
This rule is being repealed in its entirety and moved into the Division of Outdoor Recreation Rule R650-227.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The repeal of this rule does not affect the state budget.
This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.
<b>B) Local governments:</b>
The repeal of this rule does not affect local governments.

## NOTICES OF PROPOSED RULES

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

**C) Small businesses** ("small business" means a business employing 1-49 persons):

The repeal of this rule does not affect small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

**G) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

#### Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

#### H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.

#### Citation Information

**6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 73-18b-1		
------------------	--	--

#### Public Notice Information

**8. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	01/10/2024
---	------------

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

#### Agency Authorization Information

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	11/02/2023
---	--------------------------	--------------	------------

**R651. Natural Resources, Parks and Recreation.****~~R651-801. Swimming Prohibited.~~****~~R651-801-1. Swimming Prohibited.~~**

~~No person shall engage in swimming activity in any of the following:~~

- ~~(1) a designated "No Swimming" area;~~  
~~(2) a vessel launching, docking, mooring, or harbor area;~~  
~~or~~  
~~(3) near or in spillways or outlets.~~

**KEY:** ~~water safety rules~~

**Date of Last Change:** ~~1987~~

**Notice of Continuation:** ~~January 5, 2021~~

**Authorizing, and Implemented or Interpreted Law:** ~~73-18b-1~~

**NOTICE OF PROPOSED RULE**

**TYPE OF FILING:** Repeal

<b>Rule or Section Number:</b>	<b>R651-802</b>	<b>Filing ID:</b> <b>56190</b>
--------------------------------	-----------------	-----------------------------------

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	State Parks	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Melanie Shepherd	801-538-7418	melaniemshepherd@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R651-802. Scuba Diving
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is moving to the Division of Outdoor Recreation and will be incorporated into their new Rule R650-228 that they are filing.  (EDITOR'S NOTE: The proposed new Rule R650-228 is under ID 56103 in this issue, December 1, 2023, of the Bulletin.)
<b>4. Summary of the new rule or change:</b>
This rule is being repealed in its entirety and moved into the Division of Outdoor Recreation Rule R650-228.

**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 Division of Outdoor Recreation and will have no effect on the Division of State Parks.

**B) Local governments:**

The repeal of this rule does not affect local governments.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

**C) Small businesses** ("small business" means a business employing 1-49 persons):

The repeal of this rule does not affect small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

The repeal of this rule does not affect non-small businesses.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The repeal of this rule does not affect persons other than small businesses, non-small businesses, state, or local government entities.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

The repeal of this rule does not affect compliance costs for affected persons.

This rule is moving to the Division of Outdoor Recreation and will have no effect on the Division of State Parks.

**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.)

## NOTICES OF PROPOSED RULES

Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.			

## Citation Information

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Section 73-18b-1		

## Public Notice Information

<b>8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)</b>	
<b>A) Comments will be accepted until:</b>	01/03/2024

<b>9. This rule change MAY become effective on:</b>	01/10/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

## Agency Authorization Information

<b>Agency head or designee and title:</b>	Jeff Rasmussen, Director	<b>Date:</b>	11/02/2023
---	--------------------------	--------------	------------

## R651. Natural Resources, Parks and Recreation.

~~R651-802. Scuba Diving.~~
~~R651-802-1. Rules And Restrictions.~~

~~(1) A scuba diver shall display a diver's flag prior to diving activity and shall dive and surface in close proximity to the flag.~~

~~(2) No person shall place a diver's flag on the waters of this state unless diving activity is in progress in that area.~~

~~(3) If a diver's flag is placed after sunset or before sunrise, it shall be lighted.~~

~~(4) No person shall place a diver's flag in any area where boating activity might be unduly restricted.~~

~~(5) No scuba diver shall dive in a congested boating or fishing area such as narrow channels, launching or docking areas, or near reservoir outlets.~~

~~(6) No person shall scuba dive in any waters of this state unless he holds a valid certificate from an accredited scuba diving school or is in the company of a certified scuba diving instructor.~~

~~KEY: water safety rules~~
~~Date of Last Change: 1987~~
~~Notice of Continuation: January 5, 2021~~
~~Authorizing, and Implemented or Interpreted Law: 73-18b-1~~

## NOTICE OF PROPOSED RULE

## TYPE OF FILING: Amendment

<b>Rule or Section Number:</b>	<b>R907-80-15</b>	<b>Filing ID:</b>	<b>56202</b>
--------------------------------	-------------------	-------------------	--------------

## Agency Information

<b>1. Department:</b>	Transportation
<b>Agency:</b>	Administration
<b>Room no.:</b>	Administrative Suite, 1st Floor
<b>Building:</b>	Calvin Rampton
<b>Street address:</b>	4501 S 2700 W
<b>City, state and zip:</b>	Taylorsville, UT 84129
<b>Mailing address:</b>	PO Box 148455
<b>City, state and zip:</b>	Salt Lake City, UT 84114-8455

Contact person(s):		
Name:	Phone:	Name:
Leif Elder	801-580-8296	lelder@utah.gov
Becky Lewis	801-965-4026	blewis@utah.gov
James Palmer	801-965-4197	jimpalmer@agutah.gov
Lori Edwards	801-965-4048	loriedwards@agutah.gov
Please address questions regarding information on this notice to the persons listed above.		

### General Information

<b>2. Rule or section catchline:</b>
R907-80-15. Sale or Exchange Involving a Large Public Transit District
<b>3. Purpose of the new rule or reason for the change:</b>
In Laws 2023, c. 219, § 25, eff. 05/03/2023, (S.B. 27, see line 2239), the Legislature amended Section 72-5-117 to require the Department of Transportation (Department) to make administrative rules that may provide for the transfer of real property, with or without charge, to a large public transit district under certain circumstances.
The Department proposes these changes to Rule R907-80 to meet the new statutory requirement.
<b>4. Summary of the new rule or change:</b>
This proposed rule change adds Section R907-80-15 to Rule R907-80 to satisfy the requirement in the Legislature's 2023 amendment of Section 72-5-117.

### Fiscal Information

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There is no anticipated cost or savings to the state budget.
The change to Section 72-5-117 grants the Department authority to make administrative rules that may provide for the transfer of real property, with or without charge, to a large public transit district under certain circumstances.
The fiscal impact on the state's budget of such a rule is negligible.

### 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 only applies to the Department.

### C) Small businesses ("small business" means a business employing 1-49 persons):

The Department does not expect this proposed rule change to have a fiscal impact on small businesses because it only applies to the Department.

### D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

The Department does not expect this proposed rule change to have a fiscal impact on non-small businesses because it only applies to the Department.

### E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an *agency*):

The Department does not expect this proposed rule change to have a fiscal impact on persons other than small businesses, non-small businesses, or state or local government entities because it only applies to the Department.

### 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 only apply to the Department.

### G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## NOTICES OF PROPOSED RULES

Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head comments on fiscal impact and approval of regulatory impact analysis:**

The Executive Director of the Department of Transportation, Carlos M. Bracerias, 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 72-5-117		
------------------	--	--

**Public Notice Information**

**8. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	01/03/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	01/10/2024
---	------------

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Carlos M. Bracerias, PE, Executive Director	<b>Date:</b>	09/22/2023
---	---	--------------	------------

**R907. Transportation, Administration.**
**R907-80. Disposition of Surplus Land.**
**R907-80-15. Sale or Exchange Involving a Large Public Transit District.**

(1) As used in this Section R907-80-15, the following definitions apply:

(a) "Fixed guideway capital development" means the same as that term is defined in Section 72-1-102;

(b) "Large public transit district" means the same as that term is defined in Section 17B-2a-802.

(2) Notwithstanding this rule, the department may provide for the sale or exchange of real property, with or without charge, to a large public transit district if the director determines that the real property:

(a) is within the boundaries of a station area that has a station area plan certified by a metropolitan planning organization in accordance with Section 10-9a-403.1;

(b) is part of a transit-oriented development or transit-supportive development as defined in Section 17B-2a-802;

(c) is adjacent to a completed fixed guideway capital development that was overseen by the department; or

(d) will only be used by the large public transit district in a manner that the director determines will provide a benefit to the state transportation system.

(3)(a) Before selling or exchanging land under this Section R907-80-15, the department and the large public transit district will enter into an agreement to state the terms of the sale or exchange.

(b) The director must approve and sign the agreement described in Subsection R907-80-15(2)(a).

(c) Any agreement described in Subsection R907-80-15(2)(a) shall include provisions the director determines necessary to ensure the real property is used for the purposes outlined in Section 72-5-117 and the agreement.

(4) Notwithstanding contrary provisions in Rule 907-80, this Section R907-80-15 applies to the department's real property whether or not the real property is surplus.

**KEY:** surplus land, negotiated exchanges, public sales auctions, negotiated sales

**Date of Last Change:** 2023[December 1, 2020]

**Notice of Continuation:** April 21, 2022

**Authorizing, and Implemented or Interpreted Law:** 72-5-117; 72-5-111; 72-5-404

**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:	R380-67	Filing ID: 56177
Effective Date:	11/09/2023	

### Agency Information

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Administration	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 142004	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-2004	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Michelle Hale	801-419-8892	mhale@utah.gov
Dean Penovich	801-913-2621	dpenovich@utah.gov

Please address questions regarding information on this notice to the persons listed above.

### General Information

#### 2. Rule or section catchline:

R380-67. Code Blue Alert Protocols

#### 3. Purpose of the new rule or reason for the change:

Subsection 35A-16-702(4) requires the Department of Health and Human Services (DHHS) to make rules to implement Section 35A-16-7, Code Blue Alert.

This rule is the result of H.B. 499, Homeless Services Amendments, that passed in the 2023 General Session.

#### 4. Summary of the new rule or change:

Following the passing of H.B. 499 (2023), this rule establishes the requirements for DHHS to monitor for qualifying weather criteria and issue public and stakeholder notices that describe required actions by affected counties and relay other resources as provided by the Office of Homeless Services (OHS).

(EDITOR'S NOTES: A corresponding proposed new Rule R380-67 is under ID 55994 in this issue, December 1, 2023, of the Bulletin.

This filing supersedes the previous emergency rule filing for Rule R380-67, ID 55803, effective 10/01/2023, published in the October 15, 2023, Bulletin.)

**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:**

An emergency rule filing for Rule R380-67, ID 55803, was filed on 09/26/2023, effective 10/01/2023 for the following reason: Per Section 35A-16-501 and the passing of H.B. 499 (2023), DHHS is proposing an emergency rule to enact the provisions of this rule in time for the winter response period, as defined in Section 35A-16-501 to mean the period beginning October 15 and ending April 30 of the following year.

Having this rule in place ensures that DHHS maintains public health through the monitoring of qualifying weather criteria and issuing public and stakeholder notices that describe the required actions by affected counties and relay other resources as provided by the OHS.

While the justification above still applies, since implementation, the OHS has determined that the original criteria implemented was too broad and was creating an undue burden on local homeless shelters and local government agencies.

This rule modification was drafted in collaboration between DHHS, OHS, and local partners and adjusts criteria to better serve the objective of H.B. 499 (2023).

**Fiscal Information**

**6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

**A) State budget:**

Implementation of Section 35A-16-7 is anticipated to cost \$24,276 to develop the administrative structure, reporting process with the National Weather Service (NWS), and configure messaging platforms.

Ongoing operations by DHHS in order to comply with Section 35A-16-7 is anticipated to cost \$28,834 to maintain the messaging platforms and daily monitoring and dissemination of code blue alerts during the winter months.

**B) Local governments:**

The implementation of this rule is the result of H.B. 499 (2023), costs or savings to local governments associated with this process were absolved in the fiscal note for H.B. 499 (2023).

**C) Small businesses** ("small business" means a business employing 1-49 persons):

The implementation of this rule is the result of H.B. 499 (2023), there are no costs or savings to small businesses associated with this process.

**D) Persons other than small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The implementation of this rule is the result of H.B. 499 (2023), there are no costs or savings to persons other than small businesses, state, or local government entities associated with this process.

**E) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

The implementation of this rule is the result of H.B. 499 (2023), there are no compliance costs as a result of this filing.

**F) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.

The implementation of this rule is the result of H.B. 499 (2023), there are no costs or savings to businesses associated with this process.

**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 26B-1-202(48)	Section 35A-16-703	Section 35A-16-702
-----------------------------	-----------------------	-----------------------

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Order	<b>Date:</b>	11/09/2023
---	-------------------------------------	--------------	------------

**R380. Health and Human Services, Administration.**

**R380-67. Code Blue Alert Protocols.**

**R380-67-1. Authority and Purpose.**

(1) Sections 26B-1-202, 35A-16-702, and 35A-16-703 authorize this rule.

(2) This rule establishes department processes for identification of code blue events through monitoring and evaluating forecasts, alerting the public and stakeholders, and identifying the municipalities that the code blue event applies to.

**R380-67-2. Definitions.**

(1) Definitions used in this rule are defined in Section 35A-16-701.

(2) "Code Blue Event" is defined in Section 35A-16-701 and applies to municipalities at or below 7,070 feet elevation.

(3) "Winter Response Period" is defined in Section 35A-16-501.

**R380-67-3. Identification of a Code Blue Event.**

(1) The department shall monitor and evaluate forecast data provided by the National Weather Service for identifying a code blue event.

(2) A code blue event applies only to municipalities in a county of the:

- (a) first class with a population of 50,000 or more;
- (b) second class with a population of 15,000 or more;
- (c) third class with a population of 2,500 or more; and
- (d) fourth class with a population of 1,500 or more.

**R380-67-4. Code Blue Alert Communication.**

(1) The department shall compile a code blue alert message with information provided by the Office of Homeless Services and the provisions that shall be in effect during the code blue alert as defined in Section 35A-16-703.

(2) Code blue alert message shall include the duration of the code blue alert.

(3) The department shall disseminate the code blue alert electronically, no less often than every 48 hours, to those entities listed in Subsection 35A-16-702(1).

(4) Municipalities affected by a code blue alert shall comply with provisions listed under Section 35A-16-703.

**R380-67-5. Code Blue Alert Coordination.**

(1) The Office of Homeless Services shall provide to the department prepared and updated information electronically as required by Subsection 35A-16-702(3) no less often than annually and when new information becomes available.

(2) First and second class counties shall include a process for coordinating street outreach efforts required in Section 35A-16-703(5), as a part of their Winter Response Plan in accordance with Title 35A, Chapter 16, Part 5.

(3) The Office of Homeless Services shall ensure homeless shelters, state and local government entities, and any other organization listed in Subsection 35A-16-703(5) comply with the provisions listed in Section 35A-16-703 during the code blue alert.

**KEY: health, human services, code blue**

**Date of Last Change: November 9, 2023**

**Authorizing, and Implemented or Interpreted Law: 26B-1-202; 35A-16-7**

**End of the Notices of 120-Day (Emergency) Rules Section**



## FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at [adminrules.utah.gov](http://adminrules.utah.gov). The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

**REVIEWS** are governed by Section 63G-3-305.

### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number: **R156-81** Filing ID: **50311**

Effective Date: **11/06/2023**

#### Agency Information

1. Department:	Commerce	
Agency:	Professional Licensing	
Building:	Heber M. Wells Building	
Street address:	160 E 300 S	
City, state and zip:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 146741	
City, state and zip:	Salt Lake City, UT 84114-6741	
Contact persons:		
Name:	Phone:	Email:
Larry Marx	801-530-6628	lmarx@utah.gov

Please address questions regarding information on this notice to the persons listed above.

#### General Information

2. Rule catchline:
R156-81. Retired Volunteer Health Care Practitioner Act Rule

### 3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Title 58, Chapter 81, provides various profession types that may qualify under the Retired Volunteer Health Care Practitioner Act.

Subsection 58-1-106(1) provides that the Division of Professional Licensing (Division) may adopt and enforce rules to administer Title 58.

This rule was enacted to clarify the provisions of Title 58, Chapter 81, with respect to retired volunteer health care practitioners.

### 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:

Since this rule was last reviewed in November 2018, the Division has received no written comments.

### 5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 81. This rule is also necessary as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements, and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Mark B. Steinagel, Division Director	<b>Date:</b>	09/27/2023
---	---	--------------	------------

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R382-3</b>	<b>Filing ID:</b>	<b>54589</b>
<b>Effective Date:</b>	<b>11/07/2023</b>		

**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Children's Health Insurance Program	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Jordan Miera	801-538-4171	jmiera@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule catchline:</b>
R382-3. Managed Care Organization Incentives to Appropriately Use Emergency Room Services in the Children's Health Insurance Program
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 26B-3-902 requires the Department of Health and Human Services (Department) to implement the Children's Health Insurance Program through administrative rules, and Section 26B-1-213 grants the Department the authority to adopt, amend, or rescind these rules.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>

The Department did not receive any written comments regarding this rule.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

The Department has determined that this rule is necessary because it implements provisions that govern managed care organization performance measures, which reduce non-emergency services in emergency departments. Therefore, this rule should be continued.

The Department will later amend the text for recodification purposes.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	11/06/2023
---	---	--------------	------------

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R392-800</b>	<b>Filing ID:</b>	<b>54148</b>
<b>Effective Date:</b>	<b>11/09/2023</b>		

**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Population Health, Environmental Health	
<b>Room number:</b>	Second Floor	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 142102	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-2102	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Karl Hartman	801-538-6191	khartman@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule catchline:</b>
R392-800. General Sanitation in Public Places



**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

This rule is authorized under Sections 26B-1-202, 26B-7-113, and 26B-7-402.

Section 26B-7-402 orders the Department of Health and Human Services (Department) to establish and enforce minimum rules of sanitation necessary to protect public health.

**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 comments on this rule.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule establishes minimum standards for the sanitation, operation, and maintenance of public places, as defined, and provides for the prevention and control of health hazards associated with public places that are likely to affect public health including risk factors contributing to injury, sickness, death, and disability. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	11/09/2023
---	-------------------------------------	--------------	------------

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R414-1B</b>	<b>Filing ID:</b>	<b>50951</b>
<b>Effective Date:</b>	<b>11/07/2023</b>		

**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Integrated Healthcare	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov

Jonah Shaw	385-310-2389	jshaw@utah.gov
Jordan Miera	801-538-4171	jmiera@utah.gov

**Please address questions regarding information on this notice to the persons listed above.**

**General Information****2. Rule catchline:**

R414-1B. Payment for Limited Abortion Services

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

Section 26B-1-213 grants the Department of Health and Human Services (Department) the authority to adopt, amend, or rescind rules, and Section 76-7-331 prohibits the use of public funds for certain abortion services.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

The Department did not receive any written comments regarding this rule.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

The Department has determined that this rule is necessary because it prohibits the unauthorized use of public funds for certain abortion services by Medicaid providers. Therefore, this rule should be continued.

The Department will later amend the text for recodification purposes.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	11/06/2023
---	-------------------------------------	--------------	------------

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R414-11</b>	<b>Filing ID:</b>	<b>50960</b>
<b>Effective Date:</b>	<b>11/07/2023</b>		

**Agency Information**

<b>1. Department:</b>	Health and Human Services		
<b>Agency:</b>	Integrated Healthcare		
<b>Building:</b>	Cannon Health Building		

<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Jordan Miera	801-538-4171	jmiera@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule catchline:</b>
R414-11. Podiatric Services
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 26B-3-108 requires the Department of Health and Human Services (Department) to implement Medicaid through administrative rules, and Section 26B-1-213 grants the Department the authority to adopt, amend, or rescind these rules.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
The Department did not receive any written comments regarding this rule.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
The Department has determined that this rule is necessary because it implements podiatric services as described in the Medicaid provider manual and in the Medicaid State Plan. Therefore, this rule should be continued.
The Department will later amend the text for recodification purposes.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	11/06/2023
---	-------------------------------------	--------------	------------

<b>FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION</b>		
<b>Rule Number:</b>	<b>R414-14</b>	<b>Filing ID: 55386</b>
<b>Effective Date:</b>	<b>11/07/2023</b>	

**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Integrated Healthcare	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule catchline:</b>
R414-14. Home Health Services
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 26B-3-108 requires the Department of Health and Human Services (Department) to implement Medicaid through administrative rules, and Section 26B-1-213 grants the Department the authority to adopt, amend, or rescind these rules.
Additionally, 42 CFR 440.70 governs home health care under the Medicaid program.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
The Department did not receive any written comments regarding this rule.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>

The Department has determined that this rule is necessary because it defines home health terms, specifies eligibility, spells out coverage, and sets forth reimbursement for services. Therefore, this rule should be continued.

#### Agency Authorization Information

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	11/06/2023
---	---	--------------	------------

#### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Rule Number:</b>	<b>R414-54</b>	<b>Filing ID:</b>	<b>51014</b>
<b>Effective Date:</b>	<b>11/07/2023</b>		

#### Agency Information

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Integrated Healthcare	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Jordan Miera	801-538-4171	jmiera@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

#### General Information

<b>2. Rule catchline:</b>
R414-54. Speech-Language Pathology Services
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 26B-3-108 requires the Department of Health and Human Services (Department) to implement Medicaid through administrative rules, and Section 26B-1-213 grants the Department the authority to adopt, amend, or rescind these rules.

#### 4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department did not receive any written comments regarding this rule.

#### 5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The Department has determined that this rule is necessary because it implements speech-language pathology services as described in the Medicaid provider manual and in the Medicaid State Plan. Therefore, this rule should be continued.

The Department will later amend the text for recodification purposes.

#### Agency Authorization Information

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	11/06/2023
---	---	--------------	------------

#### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Rule Number:</b>	<b>R414-90</b>	<b>Filing ID:</b>	<b>51028</b>
<b>Effective Date:</b>	<b>11/07/2023</b>		

#### Agency Information

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Integrated Healthcare	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Jordan Miera	801-538-4171	jmiera@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule catchline:</b>
R414-90. Diabetes Self-Management Training
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 26B-3-108 requires the Department of Health and Human Services (Department) to implement Medicaid through administrative rules, and Section 26B-1-213 grants the Department the authority to adopt, amend, or rescind these rules.
Additionally, 42 CFR 440.130 authorizes preventive services for Medicaid members.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
The Department did not receive any written comments regarding this rule.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
The Department has determined that this rule is necessary because it allows Medicaid members to successfully manage and control diabetes through the Diabetes Self-Management Training program. Therefore, this rule should be continued.
The Department will later amend the text for recodification purposes.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	11/06/2023
---	---	--------------	------------

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R414-401</b>	<b>Filing ID:</b>	<b>53442</b>
<b>Effective Date:</b>	<b>11/07/2023</b>		

**Agency Information**

<b>1. Department:</b>	Health and Human Services
<b>Agency:</b>	Integrated Healthcare
<b>Building:</b>	Cannon Health Building
<b>Street address:</b>	288 N 1460 W
<b>City, state and zip:</b>	Salt Lake City, UT 84116

<b>Mailing address:</b>	PO Box 143102	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Jordan Miera	801-538-4171	jmiera@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule catchline:</b>
R414-401. Nursing Care Facility Assessment
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 26B-3-108 requires the Department of Health and Human Services (Department) to implement Medicaid through administrative rules, and Title 26B, Chapter 3, Part 4, requires the Department to impose an assessment on nursing care facilities to ensure patient care and quality services.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
The Department did not receive any written comments regarding this rule.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
The Department has determined that this rule is necessary because it implements the nursing care facility assessment, which fosters quality and cost-effective services for Medicaid members who reside in nursing care facilities. Therefore, this rule should be continued.
The Department will soon file an amendment to this rule to update assessment policy and for recodification purposes.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	11/06/2023
---	---	--------------	------------

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R495-879</b>	<b>Filing ID: 54253</b>
<b>Effective Date:</b>	<b>11/13/2023</b>	

**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Administration (Human Services)	
<b>Building:</b>	TSOB	
<b>Street address:</b>	4315 S 2700 W, 1st Floor	
<b>City, state and zip:</b>	Taylorsville, UT 84129	
<b>Mailing address:</b>	PO Box 45033	
<b>City, state and zip:</b>	Salt Lake City, UT 84145-0033	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Casey Cole	801-741-7523	cacole@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule catchline:</b>
R495-879. Parental Support for Children in Care
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is authorized by Section 26B-1-202.
Following the consolidation and recodification of the Department of Health and Human Services (Department) statute, this rule will be repealed and simultaneously proposed under Title R527, as Rule R527-220.
This is in an effort to consolidate Administrative Rule Titles.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments were received on this rule in the last five years.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This five-year review will allow the Department the time necessary to propose a repeal and a proposed version of Rule R495-879, Parental Support for Children in Care, under Title R527, without the expiring of Rule R495-879.
Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	10/27/2023
---	-------------------------------------	--------------	------------

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R539-10</b>	<b>Filing ID: 55881</b>
<b>Effective Date:</b>	<b>11/15/2023</b>	

**Agency Information**

<b>1. Department:</b>	Health and Human Services	
<b>Agency:</b>	Services for People with Disabilities	
<b>Room number:</b>	4th Floor	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 145145	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-5145	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Bruce Quaglia	435-669-4855	bquaglia@utah.gov
Jonah Shaw	385-310-2389	jonahshaw@utah.gov
Jordan Meira	801-538-4171	jmiera@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule catchline:</b>
R539-10. Short-Term Limited Waiting List Services
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Subsections 26B-6-402(7), 26B-6-403(2)(b), 26B-6-403(2)(l), and 26B-6-403(2)(q) authorize and establish the Division of Services for People with Disabilities' (Division) responsibilities.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
There have been no comments in support or opposition to this rule since the last review.



**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 Division has determined that this rule is necessary to establish a procedure to determine eligibility for a person on the waiting list to receive short-term limited services from the Division, as authorized by statute. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	11/13/2023
---	--	--------------	------------

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R746-365</b>	<b>Filing ID:</b>	<b>51971</b>
<b>Effective Date:</b>	<b>11/09/2023</b>		

**Agency Information**

<b>1. Department:</b>	Public Service Commission	
<b>Agency:</b>	Administration	
<b>Building:</b>	Heber M. Wells Building	
<b>Street address:</b>	160 E 300 S, 4th Floor	
<b>City, state and zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 4558	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4558	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
John Delaney	801-530-6724	jdelaney@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule catchline:</b>
R746-365. Intercarrier Service Quality

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

The Utah Legislature has declared that Title 54, Chapter 8b, (Public Utilities Public Telecommunications Law) reflects the policy of, among other things, encouraging access to competitive, high quality, affordable telecommunications services to all Utah residents.

Section 54-8b-2.2 requires the Public Service Commission (PSC) to establish rules to facilitate the competitive provision of telecommunications services, including requiring any telecommunications corporation to interconnect its essential facilities with another telecommunications corporation that provides public telecommunications services in the same, adjacent, or overlapping service territory.

This rule specifies network performance and service quality guidelines applicable to telecommunications corporations' interconnections upon which the PSC may rely in determining whether service is just, adequate, and reasonable.

**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 PSC has received no written comments from any interested person supporting or opposing this rule since the last five-year review.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule is necessary because it provides guidelines to ensure that telecommunications corporations will engineer, design, equip, and provision an efficient public telecommunications network. This rule also defines guidelines relating to interconnection and the exchange of telecommunications traffic that applies to all telecommunications carriers in furtherance of the legislative goals. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Thad LeVar, PSC Chair	<b>Date:</b>	11/09/2023
---	--------------------------	--------------	------------

**End of the Five-Year Notices of Review and Statements of Continuation Section**



## NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a **NOTICE OF FIVE-YEAR REVIEW EXTENSION (EXTENSION)** with the Office of Administrative Rules. The **EXTENSION** permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed **EXTENSIONS** for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date.

**EXTENSIONS** are governed by Subsection 63G-3-305(6).

### NOTICE OF FIVE-YEAR REVIEW EXTENSION

<b>Rule Number:</b>	<b>R523-17</b>	<b>Filing ID: 51271</b>
<b>New Deadline Date:</b>	<b>03/14/2024</b>	

#### Agency Information

<b>1. Department:</b>	Health and Human Services
<b>Agency:</b>	Substance Abuse and Mental Health
<b>Building:</b>	Cannon Health Building
<b>Street address:</b>	288 N 1460 W
<b>City, state and zip:</b>	Salt Lake City, UT 84116

#### Contact persons:

<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Thomas Dunford	801-538-4181	tdunford@utah.gov

Please address questions regarding information on this notice to the persons listed above.

#### General Information

##### 2. Rule catchline:

R523-17. Behavioral Health Crisis Response Systems Standards

##### 3. Reason for requesting the extension:

This extension will allow the Department of Health and Human Services (Department) the necessary time to perform a five-year review and amendment for Rule R523-17.

Following the consolidation and recodification of the Department's statute in the 2023 General Session, an amendment to this rule is being drafted to update statutory citations and align this rule with the standards of the Rulewriting Manual for Utah.

#### Agency Authorization Information

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	11/15/2023
---	-------------------------------------	--------------	------------

### NOTICE OF FIVE-YEAR REVIEW EXTENSION

<b>Rule Number:</b>	<b>R523-18</b>	<b>Filing ID: 51261</b>
<b>New Deadline Date:</b>	<b>03/14/2024</b>	

#### Agency Information

<b>1. Department:</b>	Health and Human Services
<b>Agency:</b>	Substance Abuse and Mental Health
<b>Building:</b>	Cannon Health Building
<b>Street address:</b>	288 N 1460 W
<b>City, state and zip:</b>	Salt Lake City, UT 84116

#### Contact persons:

<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Thomas Dunford	801-538-4181	tdunford@utah.gov

Please address questions regarding information on this notice to the persons listed above.

#### General Information

##### 2. Rule catchline:

R523-18. Mobile Crisis Outreach Teams Certification Standards

##### 3. Reason for requesting the extension:

This extension will allow the Department of Health and Human Services (Department) the necessary time to perform a five-year review and amendment for Rule R523-18.

NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

Following the consolidation and recodification of the Department's statute in the 2023 General Session, an amendment to this rule is being drafted to update statutory citations and align this rule with the standards of the Rulewriting Manual for Utah.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	11/15/2023
------------------------------------	-------------------------------------	-------	------------

End of the Notices of Five-Year Review Extensions 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

#### Conservation Commission

No. 55840 (Repeal and Reenact) R64-4: Agricultural Water Optimization Program  
Published: 10/15/2023  
Effective: 11/21/2023

#### Plant Industry

No. 55707 (Amendment) R68-9: Utah Noxious Weed Act  
Published: 09/15/2023  
Effective: 10/30/2023

No. 55669 (Amendment) R68-28: Cannabis Processing  
Published: 09/15/2023  
Effective: 10/30/2023

### Corrections

#### Administration

No. 55547 (Amendment) R251-107: Executions  
Published: 09/01/2023  
Effective: 11/07/2023

No. 55546 (Amendment) R251-108: Adjudicative Proceedings  
Published: 09/01/2023  
Effective: 11/07/2023

No. 55544 (Amendment) R251-705: Inmate Mail Procedures  
Published: 09/01/2023  
Effective: 11/07/2023

No. 55549 (Amendment) R251-707: Legal Access  
Published: 09/01/2023  
Effective: 11/07/2023

No. 55545 (Amendment) R251-708: Perimeter Patrol  
Published: 09/01/2023  
Effective: 11/07/2023

No. 55597 (Amendment) R251-711: Admission and Intake  
Published: 09/01/2023  
Effective: 11/07/2023

### Education

#### Administration

No. 55739 (Amendment) R277-406: Early Learning Program and Benchmark Assessments  
Published: 10/01/2023  
Effective: 11/07/2023

No. 55743 (Amendment) R277-415: School Nurses Matching Funds  
Published: 10/01/2023  
Effective: 11/07/2023

No. 55740 (Amendment) R277-419: Pupil Accounting  
Published: 10/01/2023  
Effective: 11/07/2023

No. 55747 (New Rule) R277-439: Block Grant Funding for Prevention Programs in Public Education  
Published: 10/01/2023  
Effective: 11/07/2023

No. 55748 (Amendment) R277-474: School Instruction and Sex Education  
Published: 10/01/2023  
Effective: 11/07/2023

No. 55744 (Amendment) R277-484: Data Standards  
Published: 10/01/2023  
Effective: 11/07/2023

No. 55741 (Amendment) R277-489: Kindergarten Programs and Assessment  
Published: 10/01/2023  
Effective: 11/07/2023

## NOTICES OF RULE EFFECTIVE DATES

No. 55745 (Amendment) R277-552: Charter School Timelines and Approval Processes  
Published: 10/01/2023  
Effective: 11/07/2023

No. 55749 (Amendment) R277-620: Suicide Prevention Programs  
Published: 10/01/2023  
Effective: 11/07/2023

No. 55750 (Amendment) R277-629: Paid Professional Hours for Educators  
Published: 10/01/2023  
Effective: 11/07/2023

No. 55752 (Amendment) R277-701: Early College Programs  
Published: 10/01/2023  
Effective: 11/07/2023

No. 55753 (Amendment) R277-922: Digital Teaching and Learning Grant Program  
Published: 10/01/2023  
Effective: 11/07/2023

No. 55742 (Amendment) R277-927: Teacher and Student Success Act (TSSA) Program  
Published: 10/01/2023  
Effective: 11/07/2023

### Environmental Quality

#### Air Quality

No. 55324 (Amendment) R307-110-17: Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits  
Published: 06/01/2023  
Effective: 10/31/2023

No. 55324 (Change in Proposed Rule) R307-110-17: Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits  
Published: 10/01/2023  
Effective: 10/31/2023

### Health and Human Services

#### Administration

No. 55664 (Repeal and Reenact) R380-300: Employee Background Screening  
Published: 09/15/2023  
Effective: 11/20/2023

#### Child Care Center Licensing

No. 55690 (Amendment) R381-40: Commercial Preschool Programs  
Published: 09/15/2023  
Effective: 11/09/2023

No. 55615 (Amendment) R381-60: Hourly Child Care Centers  
Published: 09/01/2023  
Effective: 11/09/2023

No. 55691 (Amendment) R381-70: Out of School Time Child Care Programs  
Published: 09/15/2023  
Effective: 11/09/2023

No. 55614 (Amendment) R381-100: Child Care Centers  
Published: 09/01/2023  
Effective: 11/09/2023

#### Integrated Healthcare

No. 55497 (Amendment) R414-12: Laboratory Services  
Published: 07/01/2023  
Effective: 10/30/2023

No. 55498 (Amendment) R414-502: Nursing Facility Levels of Care  
Published: 08/01/2023  
Effective: 10/30/2023

No. 55527 (Amendment) R414-505: Participation in the Nursing Facility Non-State Government-Owned Upper Payment Limit Program  
Published: 08/01/2023  
Effective: 11/20/2023

No. 55693 (Amendment) R414-515: Long Term Acute Care  
Published: 09/15/2023  
Effective: 11/01/2023

#### Residential Child Care Licensing

No. 55618 (Amendment) R430-50: Residential Certificate Child Care  
Published: 09/01/2023  
Effective: 11/09/2023

No. 55619 (Amendment) R430-90: Licensed Family Child Care  
Published: 09/01/2023  
Effective: 11/09/2023

#### Health Care Facility Licensing

No. 55686 (Amendment) R432-12: Small health Care Facility (Four to Sixteen Beds) Construction Rule  
Published: 09/15/2023  
Effective: 11/09/2023

No. 55539 (Repeal and Reenact) R432-101: Specialty Hospital - Psychiatric  
Published: 08/15/2023  
Effective: 11/01/2023

No. 55593 (Amendment) R432-270: Assisted Living Facility  
Published: 09/01/2023  
Effective: 11/09/2023

#### Human Services Program Licensing

No. 55600 (New Rule) R501-3: Inspection and Enforcement  
Published: 09/01/2023  
Effective: 11/01/2023

Recovery Services

No. 55676 (New Rule) R527-57: Kinship Locate  
Published: 09/15/2023  
Effective: 11/09/2023

No. 55682 (New Rule) R527-221: Children in Care Support Services  
Published: 09/15/2023  
Effective: 11/09/2023

Higher Education (Utah Board of)  
Administration

No. 55702 (New Rule) R765-606: USHE Employee Partner Scholarship  
Published: 09/15/2023  
Effective: 10/30/2023

No. 55703 (New Rule) R765-607: PRIME Program Grant  
Published: 09/15/2023  
Effective: 10/30/2023

No. 55704 (New Rule) R765-617: Karen Mayne Public Safety Officer Scholarship Program  
Published: 09/15/2023  
Effective: 10/30/2023

Insurance

Administration

No. 55805 (Repeal and Reenact) R590-206: Privacy of Consumer Financial and Health Information Rule  
Published: 10/15/2023  
Effective: 11/21/2023

No. 55806 (Repeal) R590-210: Privacy of Consumer Information Exemption for Manufacturer Warranties and Service Contracts  
Published: 10/15/2023  
Effective: 11/21/2023

No. 55807 (Amendment) R590-223: Rule to Recognize the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits  
Published: 10/15/2023  
Effective: 11/21/2023

No. 55808 (Amendment) R590-240: Procedure to Obtain Exemption of Student Health Programs From Insurance Code  
Published: 10/15/2023  
Effective: 11/21/2023

No. 55809 (Amendment) R590-242: Military Sales Practices  
Published: 10/15/2023  
Effective: 11/21/2023

No. 55810 (Amendment) R590-259: Dependent Coverage to Age 26  
Published: 10/15/2023  
Effective: 11/21/2023

Lieutenant Governor

Elections

No. 55535 (New Rule) R623-9: Ballot Printing, Handling, and Envelope Standards  
Published: 09/01/2023  
Effective: 11/10/2023

No. 55536 (New Rule) R623-10: Voter Registration Database Security and Voter List Maintenance  
Published: 09/01/2023  
Effective: 10/30/2023

Natural Resources

Wildlife Resources

No. 55821 (Amendment) R657-13: Taking Fish and Crayfish  
Published: 10/15/2023  
Effective: 11/21/2023

No. 55822 (Repeal) R657-59: Private Fish Ponds, Short Term Fishing Events, Private Fish Stocking, and Institutional Aquaculture  
Published: 10/15/2023  
Effective: 11/21/2023

No. 55823 (New Rule) R657-59a: Private Fish Ponds  
Published: 10/15/2023  
Effective: 11/21/2023

No. 55824 (New Rule) R657-59b: Short Term Fishing Events  
Published: 10/15/2023  
Effective: 11/21/2023

No. 55825 (New Rule) R657-59c: Aquaponics  
Published: 10/15/2023  
Effective: 11/21/2023

No. 55826 (New Rule) R657-59d: Institutional Aquaculture  
Published: 10/15/2023  
Effective: 11/21/2023

No. 55827 (New Rule) R657-59e: Stocking into Natural Lakes, Natural Flowing Streams, or Reservoirs on Natural Stream Channels  
Published: 10/15/2023  
Effective: 11/21/2023

Public Safety

Administration

No. 55811 (New Rule) R698-12: Fallen Officer Memorial Scholarship Program  
Published: 10/15/2023  
Effective: 11/21/2023

Driver License

No. 55800 (Repeal and Reenact) R708-7: Functional Ability In Driving: Guidelines for Physicians  
Published: 10/15/2023  
Effective: 11/21/2023

## NOTICES OF RULE EFFECTIVE DATES

No. 55813 (Amendment) R708-14: Adjudicative Proceedings for Driver License Actions Involving Alcohol and Drugs  
Published: 10/15/2023  
Effective: 11/21/2023

No. 55815 (Amendment) R708-35: Adjudicative Proceedings For Driver License Offenses Not Involving Alcohol or Drug Actions  
Published: 10/15/2023  
Effective: 11/21/2023

No. 55802 (Amendment) R708-41: Requirements for Acceptable Documentation, Storage and Maintenance  
Published: 10/15/2023  
Effective: 11/21/2023

No. 55804 (Amendment) R708-46: Refugee, Asylee, or Covered Humanitarian Parolee Knowledge Test in Applicant's Native Language  
Published: 10/15/2023  
Effective: 11/21/2023

Highway Patrol  
No. 55812 (New Rule) R714-561: Suicide Deterrence Grant Program  
Published: 10/15/2023  
Effective: 11/21/2023

Transportation  
Operations, Traffic and Safety  
No. 55796 (Amendment) R920-4: Special Road Use or Event  
Published: 10/15/2023  
Effective: 11/21/2023

Transportation Commission  
Administration  
No. 55798 (Amendment) R940-4: Airports of Regional Significance  
Published: 10/15/2023  
Effective: 11/21/2023

No. 55799 (New Rule) R940-10: Guidelines for Department Participation in Transportation Reinvestment Zones  
Published: 10/15/2023  
Effective: 11/21/2023

UTech Board of Trustees  
Administration  
No. 55719 (Repeal) R945-1: UTech Technical College Scholarship  
Published: 10/01/2023  
Effective: 11/07/2023

**End of the Notices of Rule Effective Dates Section**