

UTAH STATE BULLETIN

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

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

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

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

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

Office of Administrative Rules, Salt Lake City 84114

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NOTICES OF PROPOSED RULES

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 January 03, 2024, 12:00 a.m., and January 16, 2024, 11:59 p.m. are included in this, the February 01, 2024, 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 March 04, 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 May 31, 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:** Repeal and Reenact

Rule or Section Number:	R65-1	Filing ID: 56278
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Agency Information

1. Department:	Agriculture and Food	
Agency:	Marketing and Development	
Building:	TSOB South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
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Caroline Hargraves	801-982-2353	carolinehargraves@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R65-1. Utah Apple Marketing Order
3. Purpose of the new rule or reason for the change:
This rule is being repealed and reenacted because the rule revisions were more than 50% of this rule to align with the Rulewriting Manual for Utah and the changes needed to align with passed legislation in FY 2023.
4. Summary of the new rule or change:
The repealed rule had information that was not relevant to the current order or relevant to the updated Subsection 4-2-103(3).
The reenacted rule has been updated to align with the Rulewriting Manual for Utah, aligns with legislation that was passed in 2023, and removes information that did not pertain to the marketing order.

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 to the state budget because the state is not involved with the marketing order and is clerical only.

B) Local governments:

Local governments are not involved in the marketing order and are not impacted by this rule.

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

This rule does not change the impact to small businesses because the changes are clerical and do not change assessment fees.

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

The proposed rule does not impact non-small businesses because the changes are clerical and do not change the assessment fees they have already been paying.

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

This rule does not impact other persons because only producers pay the assessment fee.

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 assessment fee is not changing and there is not a compliance cost 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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Commissioner of the Department of Agriculture and Food, Craig Butters, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Subsection 4-2-103(1)(e)	Subsection 4-2-103(1)(i)	

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:	03/04/2024
9. This rule change MAY become effective on:	03/11/2024
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:	Craig Butters, Commissioner	Date:	01/09/2024
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R65. Agriculture and Food, Marketing and Development.**R65-1. Utah Apple Marketing Order.****[R65-1-1. Authority:**

Promulgated under authority of Subsection 4-2-103(1)(e).

R65-1-2. Definitions of Terms:

A. "Commissioner" means the Commissioner of Agriculture and Food of the State of Utah.

B. "Person" means an individual, partnership, corporation, association, legal representative, or any organized group of individuals.

C. "Apples" means apples produced for market.

D. "Producer" means any person in this State in the business of producing or causing to be produced apples for the commercial market, provided such producers shall not include producers who sell all the commodity direct to the consumer.

E. "Handler" means any person engaged in the operation of selling, marketing, or distributing in commerce, or affecting commerce, apples which are produced in Utah; but no rule under this Order shall apply to the sale of such apples to Retail Outlets.

F. "Registered" producers means a producer who has indicated that he/she wants to be included in the marketing order voting process by registering to vote in the referendum. Registration forms may be mailed out with the ballots.

G. "Known" producers means a producer of a specific commodity who has been identified by the commodity group, her/himself, or a third party as being eligible to register to vote in a referendum affecting that specific commodity.

R65-1-3. Board:

A. A Board of Control is hereby established consisting of seven members, two of whom shall be handlers to carry out the provisions of this order.

B. The original members of the Board of Control shall be selected by the Commissioner from a list of names submitted by the industry. Two grower members and one handler shall be appointed for a period of two years—the first appointment only. Three grower members and one handler member shall be appointed for a period of four years. All appointments after the first year shall be for a period of four years.

C. Successors to original members shall be appointed by the Commissioner from names submitted by the industry.

D. No member of such Board shall receive a salary but each shall be entitled to his actual expenses incurred while engaged in performing his duties herein authorized in accordance with Sections 63A-3-106 and 63A-3-107.

E. The duties of the Board shall be administrative only and may include only the acts mentioned in this order.

F. A majority of the Board of Control must attend a meeting to conduct business. All decisions of the Board of Control shall be by majority vote.

G. The officers of the Board shall be selected from the seven Board members at their first meeting after reorganization. The officers shall consist of a Chairman and a Vice Chairman, to be elected yearly by the members of the Board. In the event of a vacancy or unfilled office; it shall be filled by the Commissioner from a list of names submitted by the industry.

~~H. No member of the Board, nor any employee of the Board, shall be deemed responsible individually in any way whatsoever to any producer, distributor, handler, processor, or any other person, for errors of judgment, mistakes, or other acts, either of commission or omission of principal, agent, person, or employee, except for his own individual acts of dishonesty or crime. No such person or employee shall be held responsible individually for any act or omission of any other member of the Board. The liability of the members of such Board shall be several and not joint, and no member shall be liable for the default of any other member.~~

R65-1-4. Provisions of the Order.

~~A. This order provides for:~~

~~1. Advertising and sales promotion to create and expand the market of Utah Apples. This shall be done without reference to brand or trade names.~~

~~2. Research projects and experiments for the purpose of improving the quality, size, health and general conditions of the apples grown in the State of Utah and for the purpose of protecting the health of the citizens of the State.~~

~~3. Uniform grading of apples sold or offered for sale by producers or handlers. Such grading standards shall not be established below any minimum standards now prescribed by law for this State.~~

~~4. The Board may cooperate with any other state or federal agency whose activities may be deemed beneficial to the purpose of this Order which is to strengthen the apple businesses in the state.~~

~~B. Expenses—Assessments—Collection and Disbursement~~

~~1. Each producer or handler subject to this order shall pay to the Board of Control such producer's or handler's pro rata share of such expenses as the Commissioner may find will necessarily be incurred by the Board for the maintenance and functioning of said Board. Each producer shall pay up to 5 cents per 40 lb. box to the Board annually. The discretionary assessment shall be set by majority vote of the board, and approved by the Commissioner. The pro rata share of the expenses payable by a cooperative association of producers shall be computed on the basis of the quantity of the product covered by the Order which is distributed, sold, or shipped in commerce by such cooperative association of producers. The Board may maintain in its own name, or in the name of its members, a suit against any handler or producer, subject to this Order, for the collection of such handler's or producer's pro rata share of expenses.~~

~~2. The Board shall retain records of the receipt of the assessment. The records shall be audited annually by an auditor approved by the Commissioner. Copies of the audit shall be available to any contributor upon request.~~

~~3. The Board of Control is required to reimburse the Commissioner for funds which are expended by the Commissioner in performing his duties, as provided in this Order, such reimbursement to include only funds actually expended in connection with this Order.~~

~~4. The Board is authorized to incur such expenses as are necessary to carry out its functions subject to the approval of the Commissioner. The Board shall receive and disburse all funds received by it pursuant to paragraph 5. Any funds remaining at the end of any year over and above the necessary expenses of said Board of Control may be divided among all persons from whom such funds were collected, or, at the discretion of the Board, such amounts may be applied to the necessary expenses of the Board for the continuation of its program during the next succeeding year, and in such case the Board shall credit all persons from whom such funds were collected with their proper proportions thereof.~~

R65-1-5. Division of Funds.

~~Assessments made and monies collected under provisions of this Order shall be divided into assessments and funds for~~

~~A. administrative purposes;~~

~~B. advertising and promotional purposes; and~~

~~C. research purposes. Such assessments and funds shall be used solely for the purposes for which they are collected; provided, that funds remaining at the end of any year may be used in the succeeding year and provided, that no funds be used for political or lobbying activities.~~

R65-1-6. Complaints for Violations—Procedure.

~~Complaints for violations shall be handled by the responsible legal agencies and shall be enforced in the civil courts of the State.~~

R65-1-7. Refund.

~~Any producer who wishes a refund of their assessments may receive such by notifying the Board in writing of their request by December 31 for apples harvested in that harvest year.~~

R65-1-8. Termination of Order.

~~The Commissioner may terminate the Marketing Order at such time as he may determine there is no longer an industry need for such order. This order shall be reviewed or amended at least every five years by the industry, Subsection 4-2-2(3)(a). Once a year, a referendum vote may be called at the request of the producers through a petition of ten percent of the producers.]~~

R65-1-1. Purpose and Authority.

~~(1) Promulgated under the authority of Subsection 4-2-103(1)(c) and Subsection 4-2-103(1)(i).~~

~~(2) This rule establishes a marketing order for Utah apples to promote orderly market conditions, give Utah producers a fair return on their investment in the marketplace, and promote the marketing of Utah apples.~~

~~(3) Pursuant to Subsection 4-2-103(3)(b)(i), a board of control is created, and the board shall ensure;~~

~~(a) proceeds from assessments are placed in an account in the board of control's name in a depository institution; and~~

~~(b) an independent auditor approved by the commissioner annually audits the account.~~

R65-1-2. Definitions.

~~(1) "Board" or "Board of Control" means the Board of Control for Apple Marketing.~~

~~(2) "Commissioner" means the Commissioner of the Utah Department of Agriculture and Food.~~

~~(3) "Person" means an individual, partnership, corporation, association, legal representative, or any organized group of individuals.~~

~~(4) "Apples" means apples produced for the market.~~

~~(5) "Producer" means a person in the business of producing or causing to be produced apples for the commercial market. Producers who sell commodities directly to the consumer are not included.~~

~~(6) "Handler" means any person engaged in the operation of selling, marketing, distributing, in commerce, or affecting commerce of apples produced in Utah, but no rule under this Order shall apply to the sale of apples to retail outlets.~~

~~(7) "Independent auditor" means a certified public accountant or chartered accountant who examines a company's financial records and business transactions with which they are not~~

affiliated. An independent auditor may not be a person employed by the department.

(8) "Registered producer" means a producer who registers to vote in the referendum, creates the marketing order, and indicates they want to be included in the marketing order voting process.

(9) "Known producer" means a producer of a specific commodity who the commodity group identifies as eligible to register to vote in a referendum affecting that commodity.

R65-1-3. Board.

(1) The Board of Control shall consist of seven members, two of whom shall be handlers to implement the duties of the board, plus the commissioner.

(2)(a) The commissioner shall select the original board members from a list of names submitted by the industry.

(b) The board shall consist of:

(i) two producer members and one handler for two years - the first appointment only;

(ii) three producer members and one handler for four years; and

(iii) each appointment shall be for four years after the first year.

(3) The commissioner shall appoint successors to original members from names submitted by the industry.

(4) Pursuant to Sections 63A-3-106 and 63A-3-107, board members may receive per diem and travel expenses incurred by the board member for attendance at an official meeting.

(5)(a) A majority of the board members plus the chair shall constitute a quorum.

(b) Each decision of the board shall be by majority vote.

(6) A designee from the Agricultural Cooperative Association may serve as an ex officio member to complete the duties of the board.

R65-1-4. Duties of the Board.

(1)(a) The board may engage in advertising and sales promotion programs to create new or larger markets for apples grown in Utah.

(b) Marketing programs:

(i) shall promote the sale of apples without any reference to a particular brand or trade name; and

(ii) may not use false or unwarranted claims on behalf of apples or disparage the quality, value, sale, or use of any other agricultural commodity to supply the market demands of consumers of the commodity.

(2) The board may research projects and experiments to improve the quality, size, health, and general conditions to grow apples in Utah.

(3) Labeling, marketing, or branding of apples may not conflict with any rules of the department or state law.

(4) The board shall cooperate with any other state or federal agency to consider activities that may benefit this rule or marketing order.

(5) The duties of the board shall be administrative only and may include only the acts mentioned in this rule.

(6) With the commissioner's approval, the board may establish policies necessary and incidental to the administration of this rule.

R65-1-5. Expenses, Assessments, Collections, and Disbursement.

(1)(a) Each producer or handler shall pay to the board the producer's or handler's pro rata share of expenses as the commissioner of expenses the board finds necessary.

(b) The discretionary assessment shall be set by a majority vote of the board and approved by the commissioner.

(c) The pro rata share of the expenses payable by a cooperative association of producers shall be computed based on the quantity of the product covered by the marketing order that is distributed, sold, or shipped in commerce by the cooperative association of producers.

(2) Each producer shall pay up to \$1 per bin of apples distributed, sold, or shipped in Utah commerce, to the board annually.

(3) The board shall retain records of the receipt of the assessment.

(4) The commissioner may require the board to reimburse funds that the commissioner spends performing duties, as listed in Section R65-1-4.

(5)(a) The board may incur expenses as necessary to carry out its functions, subject to the commissioner's approval.

(b) The board shall receive and disburse any funds it receives pursuant to Section R65-1-5.

(6)(a) An independent auditor shall audit the board's financial records at least once in the department's fiscal year and when the commissioner requests.

(b) The board must complete the annual audit and provide it to the department's Administrative Services Division within 180 days of the end of the department's fiscal year.

(c) The audit shall examine the receipt of assessments, the disbursement of funds, and any reimbursements, as well as a review of the board's financial documents, including bank statements, bank account reconciliations, and board meeting minutes.

(d) The board shall make copies of the audits and financial statements available to producers and processors for examination after the removal of any confidential individual producer or processor information.

(7)(a) The board shall divide assessments made, and money collected into funds for administrative, advertising, and research purposes.

(b) The board may use funds as described in Subsection 4-2-103(1)(e) and may not use funds for political or lobbying activities.

(8)(a) If, at the end of the department's fiscal year, the assessments collected exceed the expenses incurred, the board, with the commissioner's approval, may carry over a portion of the excess into subsequent years as a reserve.

(b) The reserve funds may cover any expenses authorized by this rule, and necessary expenses of liquidation if the commissioner terminates the order or dissolves the board.

(c) The board shall refund any excess not kept in reserve proportionately to the producers or processors that paid the excess.

(d) Without an additional amount reserve level approved by the commissioner, the amount held may not exceed one year's operations expenses.

(9)(a) Within 30 days after the board collects the assessment, the board may receive a written request for a refund from a producer objecting to the payment;

(b) The board shall approve and pay each refund claim from its account.

(c) The board may deny refund claims filed more than 30 days after the assessment's collection date;

(d)(i) If the board determines the expense to send postcards will exceed their budget, they may electronically notify each producer subject to the assessment and allow them to request a refund by responding to the electronic notification.

(ii) The board may verify electronic notifications through reading receipt verification processes.

(iii) Producers must provide accurate and complete email addresses to the board to allow electronic notifications.

(e) The board shall notify the department each time a producer requests a refund.

R65-1-6. Complaints for Violations - Procedure.

Responsible legal agencies shall handle complaints for violations of this rule, and the civil courts shall enforce it.

R65-1-7. Termination of Order.

(1) The commissioner may terminate the Utah Apple Marketing Order when there is no longer an industry need for the order.

(2) Upon the termination of the Order, the then functioning members of the board shall:

(a) continue in their capacity until discharged by the commissioner upon dissolution of the board;

(b) dispose of any remaining funds in a manner as the commissioner may determine to be appropriate and

(c) to the extent practicable, proportionally return funds to the producers who may have paid in excess.

(3) The department shall review or amend this rule at least every five years.

(4) Producers may request a referendum vote once a year through a petition of 25% of the registered producers.

R65-5-8. Rights of the Commissioner.

(1) Members of the board and any agents, employees, or representatives of the board shall be subject to removal or suspension by the commissioner at any time.

(2)(a) Each rule, decision, determination, or other act of the board shall be subject to the commissioner's veto at any time.

(b) Upon veto, the board will consider the board's action as void, except for acts done before the veto by the commissioner.

KEY: promotions

Date of Last Change: [1987]2024

Notice of Continuation: August 30, 2019

Authorizing, and Implemented or Interpreted Law: 4-2-103(1)(e)

NOTICE OF PROPOSED RULE

TYPE OF FILING: Repeal and Reenact

Rule or Section Number:	R65-5	Filing ID: 56279
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Agency Information

1. Department:	Agriculture and Food
Agency:	Marketing and Development
Building:	TSOB South Bldg, Floor 2

Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	Phone:	Email:
Caroline Hargraves	801982-2353	carolinehargraves@utah.gov
Kelly Pehrson	801-982-2200	kwpehrson@utah.gov
Amber Brown	385-245-5222	ambermbrown@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R65-5. Utah Red Tart and Sour Cherry Marketing Order

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

This rule is being repealed and reenacted because the rule revisions were more than 50% of the rule to align with the Rulewriting Manual for Utah and the changes needed to align with passed legislation in FY 2023.

4. Summary of the new rule or change:

The repealed rule had information that was not relevant to the current order or relevant to the updated Subsection 4-2-103(3).

The reenacted rule has been updated to align with the Rulewriting Manual for Utah, aligns with legislation that was passed in 2023, and removes information that did not pertain to the marketing order.

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 to the state budget because the state is not involved with the marketing order and is clerical only.

B) Local governments:

Local governments are not involved in the marketing order and are not impacted by this rule.

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

This rule does not change the impact on small businesses because the changes are clerical and do not change assessment fees.

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

The proposed rule does not impact non-small businesses because the changes are clerical and do not change the assessment fees they have already been paying.

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

This rule does not impact other persons because only producers pay the assessment fee.

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 assessment fee is not changing and there is not a compliance cost 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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

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

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

Subsection 4-2-103(1)(e)	Subsection 4-2-103(1)(i)	
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Public Notice Information**8. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 03/04/2024

9. This rule change MAY become effective on: 03/11/2024

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:	Craig Butters, Commissioner	Date:	01/09/2024
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R65. Agriculture and Food, Marketing and Development. R65-5. Utah Red Tart and Sour Cherry Marketing Order.**~~R65-5-1. Authority.~~**

~~Promulgated under authority of Section 4-2-103(1)(e).~~

~~R65-5-2. Definitions of Terms.~~

~~A. "Commissioner" means the Commissioner of Agriculture and Food of the State of Utah.~~

~~B. "Person" means an individual, partnership, corporation, association, legal representative, or any organized group of individuals.~~

~~C. "Cherries" mean all marketable Red Tart and Sour cherries produced and sold to manufacturers or consumers.~~

~~D. "Producer" means any person in this state in the business of producing or causing to be produced Red Tart or Sour cherries, that has a minimum of 300 trees or has received \$500.00 or more from a processor for the previous year's production.~~

~~E. "Registered" producer means a producer who has indicated that he/she wants to be included in the marketing order voting process by registering to vote in the referendum. Registration forms may be mailed out with the ballots. Only registered voting producers will be counted.~~

~~F. "Known" producers means a producer of a specific commodity who has been identified by the commodity group, her/himself, or a third party as being eligible to register to vote in a referendum affecting that specific commodity.~~

~~G. "Processor" means any person engaged in canning, freezing, dehydrating, fermenting, distilling, extracting, preserving, grinding, crushing, or in any other way preserving or changing the form of cherries for the purpose of marketing them.~~

~~H. "Board" means Red Tart and Sour Cherry Marketing Board.~~

R65-5-3. Board.

~~A. A Board is hereby established consisting of seven members, two of whom shall be processors to carry out the provisions of the order.~~

~~B. The original members of the Board of Control shall be selected by the Commissioner from a list of names submitted by the industry. Three grower members and one processor member shall be appointed for a term of four years. Two grower members and one processor member shall be appointed for four years.~~

~~C. Successors to original members may be appointed by the Commissioner from names submitted by the industry.~~

~~D. No member of such Board shall receive a salary but each shall be entitled to his actual expenses incurred while engaged in performing his duties herein authorized in accordance with Sections 63A-3-106 and 63A-3-107.~~

~~E. The duties of the Board shall be administrative only and may include only the acts mentioned in this Marketing Order.~~

~~F. All decisions of the Board of Control shall be by majority vote.~~

~~G. No member of the Board, nor any employee of the Board, shall be deemed responsible individually in any way whatsoever to any producer, distributor, handler, processor, or any other person, for errors of judgment, mistakes, or other acts, either of commission or omission of principal, agent, person, or employee, except for his own individual acts of dishonesty or crime. No such person or employee shall be held responsible individually for any act or omission of any other member of the Board. The liability of the members of such Board shall be several and not joint, and no member shall be liable for the default of any other member.~~

R65-5-4. Provisions of the Order.

~~A. This order shall provide for:~~

~~1. Uniform grading Red Tart and Sour cherries for fresh or frozen markets, sold or offered for sale by producers or processors. Such grading standards shall not be established below any minimum standards now prescribed by law for this state.~~

~~2. Advertising and sales promotion to create new or larger markets for cherries grown in Utah, provided that any such plan shall be directed towards increasing the sale of such commodity without any reference to a particular brand or trade name. Provided further, that no advertising or sales promotion program shall be authorized which shall make use of false or unwarranted claims in behalf of the~~

~~product covered by this Order, or disparage the quality, value, sale or use of any other agricultural commodity to supply the market demands of consumers of such commodity.~~

~~3. Labeling, marketing, or branding of cherries which does not conflict with any rules of the Commissioner or laws of the State of Utah.~~

~~4. The Board of Control to cooperate with any other state or federal agency whose activities may be deemed beneficial to the purposes of the Order.~~

~~B. Expenses Assessments Collections and Disbursement.~~

~~1. Each producer or processor subject to this Order shall pay to the Board his or her pro rata share (as approved by the Commissioner) of such expenses as the Board may find necessary to be incurred for the functioning of said Marketing Order. This assessment levied in the specified amount shall constitute a personal debt of every person so assessed and shall be due and payable when payment is called for thereby. The pro rata share of the expenses payable by a cooperative association of producers shall be computed on the basis of the quantity of the product covered by the Order which is distributed, sold, or shipped in commerce by such cooperative association of producers or processors. The Board may maintain in its own name, or in the name of its members, a suit against any producer, or processor subject to this Order, for the collection of such producer's pro rata share of expenses.~~

~~2. This assessment shall be determined to be up to \$10.00 per ton for Red Tart and Sour cherries. The discretionary assessment shall be set by majority vote of the board, as approved by the Commissioner. The assessment is effective May 1, 1983.~~

~~3. The assessment of each producer shall be deducted from the producer's gross receipt of Red Tart and Sour cherries by the producer processor. All proceeds from the deducted portion shall be paid annually to the Board on or before October 1, for that crop year.~~

~~4. The Board shall retain records of the receipt of the assessment which will be available for public inspection upon request. The Board shall issue an annual financial statement to the Commissioner showing receipts and reimbursement. This statement shall be made available to any contributor upon request.~~

~~5. The Board is required to reimburse the Commissioner for any funds as are expended by him in performing his duties as provided in this Order. Such reimbursement shall include only funds actually expended in connection with this Order.~~

~~6. The Board is authorized to incur such expenses as are necessary to carry out its functions subject to the approval of the Commissioner. The Board shall receive and disburse all funds received by it pursuant to Section R65-5-5.~~

~~7. The Board shall retain records of the receipt of the assessment. These records shall be audited annually by an auditor approved by the Commissioner. Copies of the audit shall be available to any contributor upon request.~~

R65-5-5. Division of Funds.

~~Assessment made and monies collected under provisions of this order shall be divided into assessments and funds for administrative, advertising and research purposes. Such assessments and funds shall be used solely for the purposes for which they are collected; provided, that no funds be used for political or lobbying activities.~~

R65-5-6. Complaints for Violation—Procedure.

~~Complaints for violation shall be handled by the responsible legal agencies and shall be enforced in the civil courts of the State.~~

R65-5-7. Termination of Order.

The Commissioner may terminate the Marketing Order at such time as he may determine there is no longer an industry need for such order. This order shall be reviewed or amended at least every five years by the industry. Once a year, a referendum vote may be called at the request of the producers through a petition of ten percent of the registered producers.]

R65-5-1. Purpose and Authority.

(1) Promulgated under authority of Subsection 4-2-103(1)(e) and Subsection 4-2-103(1)(i).

(2) This rule establishes a marketing order for Utah Red Tart and Sour Cherries to promote orderly market conditions, give Utah producers a fair return on their investment in the marketplace, and promote the marketing of Utah Red Tart and Sour Cherries.

(3) A board of control is created, pursuant to Subsection 4-2-103(3)(b)(i), to ensure:

(a) proceeds from any assessments are placed in an account in the board of control's name in a depository institution; and

(b) the account is annually audited by an independent auditor approved by the commissioner.

R65-5-2. Definitions of Terms.

(1) "Board" or "Board of Control" means the Red Tart and Sour Cherry Marketing Board.

(2) "Cherries" means the same as defined in 7 CFR 930; means all tart and sour cherry varieties grown in the production area classified botanically as Prunus cerasas, or hybrids of Prunus cerasas by Prunus avium, or Prunus cerasas by Prunus fruticosa.

(3) "Commissioner" means the Commissioner of the Utah Department of Agriculture and Food or the commissioner's designee.

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

(5) "Independent auditor" means a certified public accountant or chartered accountant who examines a company's financial records and business transactions with which they are not affiliated. An independent auditor may not be a person employed by the department.

(6) "Order" or "marketing order" means the mechanism that levies the assessment.

(7) "Person" means an individual, partnership, corporation, association, legal representative, or any organized group of individuals.

(8) "Processor" means any person in Utah engaged in canning, freezing, dehydrating, fermenting, distilling, extracting, preserving, grinding, crushing, or in any other way preserving or changing the form of cherries to market them.

(9) "Producer" means any person in Utah in the business of producing or causing Red Tart or Sour cherries to be produced that have at least 300 trees or have received at least \$500 from a processor for the previous year's production.

(10) "Registered producer" means a producer who registers to vote in the referendum, creates the marketing order, and indicates they want to be included in the marketing order voting process.

R65-5-3. Board of Control.

(1) The board of control shall consist of seven members plus the commissioner or the commissioner's designee.

(2)(a) The commissioner shall select the original board members from a list of names submitted by the industry.

(b) The board shall consist of:

(i) three producer members and one processor member appointed for a term of four years; and

(ii) two producer members and one processor member are appointed for two years.

(A) the appointed term shall be four years after the first two years.

(B) Board members may be appointed for repeat terms.

(3) The commissioner shall appoint successors to original members from names submitted by the industry.

(4) Board members may not receive a salary, but each may receive a per diem and travel expenses in accordance with Sections 63A-3-106 and 63A-3-107.

(5)(a) A majority of the board members plus the chair shall constitute a quorum.

(b) Each decision of the board shall be by majority vote.

(6) A designee from the Agricultural Cooperative Association may serve as an ex officio member to complete the duties of the board.

R65-5-4. Duties of Board.

(1)(a) The board may engage in advertising and sales promotion programs to create new or larger markets for cherries grown in Utah.

(b) Marketing programs;

(i) shall promote the sale of cherries without any reference to a particular brand or trade name; and

(ii) may not use false or unwarranted claims on behalf of cherries or disparage the quality, value, sale, or use of any other agricultural commodity to supply the market demands of consumers of the commodity.

(2) The board may research projects and experiments to improve the quality, size, health, and general conditions of growing cherries in Utah.

(3) Labeling, marketing, or branding of cherries may not conflict with any rules of the department or state law.

(4) The board shall cooperate with any other state or federal agency to consider activities that may benefit this rule or marketing order.

(5) The duties of the board shall be administrative only and may include only the acts mentioned in this rule.

(6) With the commissioner's approval, the board may establish policies necessary and incidental to the administration of this rule.

R65-5-5. Expenses, Assessments, Collections, and Disbursement.

(1)(a) Each producer or processor shall pay the board an assessment equal to a pro rata share, as approved by the commissioner, of expenses the board finds necessary.

(b) The board shall compute the pro rata share of the expenses payable by a cooperative association of producers or processors based on the quantity of the product covered by the order that is distributed, sold, or shipped in commerce by the cooperative association of producers or processors.

(2) This assessment shall be up to \$10 per ton of cherries.

(3)(a) Each producer shall deduct the assessment from the producer's gross receipt of cherries from a processor and pay the board upon sale.

(b) Any proceeds the processor receives from the deducted portion, the processor shall pay annually to the board on or before February 1 for each crop year.

(4) The board shall keep records of the receipt of the assessment that shall be available for public inspection upon request.

(5)(a) The commissioner or the department may require the board to reimburse the department or commissioner for any funds spent by the department or commissioner in performing duties under this rule.

(b) Reimbursement shall include only funds spent in connection with this rule.

(6)(a) The board may incur expenses necessary to carry out its functions, subject to the commissioner's approval.

(b) The board shall receive and disburse any funds it receives pursuant to Section R65-5-5.

(7)(a) An independent auditor shall audit the board's financial records at least once in the department's fiscal year and when the commissioner requests.

(b) The board must complete the annual audit and provide it to the department's Administrative Services Division within 180 days of the end of the department's fiscal year.

(c) The audit shall examine the receipt of assessments, the disbursement of funds, and any reimbursements, as well as a review of the board's financial documents, including bank statements, bank account reconciliations, and board meeting minutes.

(d) The board shall make copies of the audits and financial statements available to producers and processors for examination after the removal of any confidential individual producer or processor information.

(8)(a) The board shall divide assessments made and money collected into funds for administrative, advertising, and research purposes.

(b) The board may use funds as described in Subsection 4-2-103(1)(e) and may not use funds for political or lobbying activities.

(9)(a) If, at the end of the department's fiscal year, the assessments collected exceed the expenses incurred, the board, with the commissioner's approval, may carry over a portion of the excess into subsequent years as a reserve.

(b) The reserve funds may cover any expenses authorized by this rule and necessary expenses of liquidation if the commissioner terminates the order or dissolves the board.

(c) The board shall refund any excess not kept in reserve proportionately to the producers or processors that paid the excess.

(d) Without an additional amount reserve level approved by the commissioner, the amount held may not exceed one year's operations expenses.

(10)(a) Within 30 days after the board collects the assessment, the board may receive a written request for a refund from a producer objecting to the payment.

(b) The board shall approve and pay each refund claim from its account.

(c) The board may deny refund claims filed more than 30 days after the assessment's collection date.

(d) The board may send a postage-paid, self-addressed postcard to each producer subject to the assessment, allowing them to request a refund by returning the postcard.

(e)(i) If the board determines the expense to send postcards will exceed their budget, they may electronically notify each producer subject to the assessment and allow them to request a refund by responding to the email notification.

(ii) The board may verify electronic notifications through reading receipt verification processes.

(iii) Producers must provide accurate and complete email addresses to the board to allow electronic notifications.

(f) The board shall notify the department each time a producer requests a refund.

R65-5-6. Complaints for Violation - Procedure.

Responsible legal agencies shall handle complaints for violation of this rule, and civil courts shall enforce it.

R65-5-7. Termination of Order.

(1) The commissioner may terminate the order at a time as it is determined there is no longer an industry need for the order.

(2) Upon the termination of the Order, the then functioning members of the board shall:

(a) continue in their capacity until discharged by the commissioner upon dissolution of the board.

(b) dispose of any remaining funds in a manner as the commissioner may determine to be appropriate; and

(c) to the extent practicable, proportionally return funds to the producers who may have paid in excess.

(3) The department shall review or amend this rule at least every five years.

(4) Producers may request a referendum vote once a year through a petition of 25% of the registered producers.

R65-5-8. Rights of the Commissioner.

(1) Members of the board and any agents, employees, or representatives of the board shall be subject to removal or suspension by the commissioner at any time.

(2)(a) Each rule, decision, determination, or other act of the board shall be subject to the commissioner's veto at any time.

(b) Upon veto, the board will consider the vetoed action as void, except for acts done before the veto by the commissioner.

KEY: promotions

Date of Last Change: ~~1989~~2024

Notice of Continuation: March 21, 2022

Authorizing, and Implemented or Interpreted Law: 4-2-103(1)(e)

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:

R277-100

Filing ID:
56284

Agency Information

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

Contact persons:		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R277-100. Definitions for Utah State Board of Education (Board) Rules
3. Purpose of the new rule or reason for the change:
This rule is being updated to amend the definition of the term "monitoring" to align with the amendments to Rule R277-114, which creates the Utah State Board of Education (USBE) Oversight Framework. (EDITOR'S NOTE: The proposed amendment to Rule R277-114 is under ID 56286 in this issue, February 1, 2024, of the Bulletin.)
4. Summary of the new rule or change:
The amendments specifically add a definition for the "Utah Schools Information Management System" (USIMS).

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 direct or measurable costs associated with clarifying the term "monitoring" or adding a definition for USIMS as described in Section 53E-3-518. The changes help the Utah State Board of Education (USBE) clearly explain monitoring and oversight of educational programs.
B) Local governments:
This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. The changes provide clarity for Local Education Agencies (LEAs) but do not add costs or savings for LEA budgets.
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 impacts 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 measurable costs associated with adding the definitions.

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

Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0

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

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

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

Citation Information

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

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

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

A) Comments will be accepted until:	03/04/2024
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9. This rule change MAY become effective on:	03/11/2024
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	01/16/2024
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R277. Education, Administration.

R277-100. Definitions for Utah State Board of Education (Board) Rules.

R277-100-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of 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 provide definitions that are used in the Board rules beginning with Rule R277.

R277-100-2. Definitions.

(1) "Accreditation" means the formal process for internal and external review and approval under the standards of an accrediting entity adopted by the Board.

(2) "Agency" means:

(a) an entity governed by the Board;

(b) an LEA; or

(c) a grant sub-recipient.

(3) "Board" means the 15 elected members of the State Board of Education.

(4) "Charter school" means a school established as a charter school by a charter school authorizer under Title 53G, Chapter 5, Charter Schools, and Board rule.

(5) "Comprehensive dropout intervention and prevention program" means a program that:

(a) addresses needs of students who are not succeeding in a traditional school environment;

(b) provides targeted instruction that increases student credit-earning rates toward graduation; and

(c) partners with community entities to provide a continuum of services with the focus of preparing students for life after high school.

(6)(a) "Cumulative file" or "cumulative folder" means a physical or digital record maintained by an LEA for each student containing, at a minimum, the following information:

(i) evidence of the student's legal name and date of birth;

(ii) student demographic data, including race, ethnicity, and gender;

(iii) name and contact information for the student's parents;

(iv) a record of the student's courses, teachers, and grades or progress;

(v) a record of the student's performance on statewide assessments;

(vi) documentation concerning a student's eligibility for IDEA or 504 services;

(vii) a record of suspensions and expulsions, in accordance with Subsection 53G-8-208(4)(a);

(viii) known allergies;

(ix) a record of vision and health screening results; and

(x) a record of required student immunizations; and

(xi) pertinent legal documents, including protective orders, custody orders, and parenting or education plans.

(b) "Cumulative file" may include additional student information in accordance with an LEA's policies.

(7) "District school" means a public school under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(8) "Dual enrollment student" means a student who:

(a) is enrolled simultaneously in:

(i) a private school or home school; and

(ii) a public school; and

(b) is counted by an LEA in membership for purposes of generating state or federal funding for only those courses or subjects for which the LEA provides instruction.

(9) "Educator" means an individual licensed under Section 53E-6-201 and who meets the requirements of Board rule.

(10) "ESSA" or the "Every Student Succeeds Act" means the congressional act, which reauthorized the Elementary and Secondary Education Act of 1965, which is found at 20 U.S.C. 6301, et seq.

(11)(a) "Evaluate" or "review" means to observe and assess a program or set of requirements with an objective of making recommendations, if appropriate, for necessary changes or improvement.

(b) An "evaluation" or "review" may include providing training and technical assistance on program-related matters and performing on-site reviews of program operations.

(12)(a) "External audit" means an appraisal activity established under the direction of an individual or entity outside of the subject agency to examine and evaluate the adequacy and effectiveness of:

- (i) agency control systems;
- (ii) compliance;
- (iii) performance; and
- (iv) financial position.

(b) An external audit is conducted in accordance with current professional and industry technical standards, as applicable, for external audits.

(13)(a) "Home school student" means a student who:

(a) attends a home school pursuant to Section 53G-6-204; and

(b) is not counted by an LEA in membership for purposes of generating state or federal funding.

(14) "Individualized education program" or "IEP" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with Part B of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Section 1400 (2004), and rule.

(15) "Individuals with Disabilities Education Act" or "IDEA," 20 U.S.C. Section 1400 et seq. (2004), is a four part (A-D) piece of federal legislation that ensures a student with a disability is provided with a Free Appropriate Public Education (FAPE) that is tailored to the student's individual needs.

(16)(a) "Internal audit" means an independent appraisal activity established within an agency as a control system to examine and objectively evaluate the adequacy and effectiveness of other internal control systems within the agency or the public education system.

(b) An "internal audit" is conducted in accordance with the current:

- (i) International Standards for the Professional Practice of Internal Auditing; or
- (ii) Government Auditing Standards, issued by the Comptroller General of the United States.

(17)(a) "LEA" or "local education agency" means a school district or charter school.

(b) For purposes of certain rules, "LEA" or "local education agency" may include the Utah Schools for the Deaf and the Blind (USDB) if indicated in the specific rule.

(18)(a) "LEA governing board" or "local board" means:

- (i) for a school district, a local school board; and
- (ii) for a charter school, a charter school governing board.

(b) For purposes of certain rules, "LEA governing board" or "local board" may include the State Board of Education as the governing board for the Utah Schools for the Deaf and the Blind if indicated in the specific rule.

(19)(a) "Monitor" [~~or "oversee"~~] means to formally supervise, inspect, or examine the compliance, performance, or finances of a program or set of requirements.

(b) A monitoring [~~or oversight~~] program may include:

(i) review of financial and performance reports required of the subject program;

(ii) follow-up to ensure the subject program takes timely and appropriate actions to correct identified deficiencies;

(iii) supervising remedial action recommended by audit or monitoring findings or required by Board rule; and

(iv) any function performed in an evaluation or review.

(20)(a) "Multidisciplinary team" means a group of individuals from multiple disciplines who meet to:

(i) pursue the common goal of evaluating and triaging the academic, social, emotional, physical, and behavioral needs of a student or group of students; and

(ii) create individualized strategies and interventions to address identified needs.

(b) An LEA's multidisciplinary school team as described in Subsection (20)(a) may include:

(i) administrative personnel;

(ii) a local law enforcement officer or school resource officer;

(iii) a mental health professional;

(iv) a general education or special education teacher; and

(v) other community members as determined by the LEA.

(21) "Parent" means a parent or guardian who has established residency of a child under Section[s] 53G-6-302, 53G-6-303, or 53G-6-402, or another applicable Utah guardianship provision.

(22) "Plan for College and Career Readiness" or "SEOP" means a student education occupation plan for college and career readiness that is a developmentally organized intervention process that includes:

(a) a written plan, updated annually, for a secondary student's (grades 7-12) education and occupational preparation;

(b) all Board, local board and local charter board graduation requirements;

(c) evidence of parent or guardian, student, and school representative involvement annually;

(d) attainment of approved workplace skill competencies, including job placement when appropriate; and

(e) identification of post secondary goals and approved sequence of courses.

(23) "Preschool" means a school in which all the students enrolled are pre-kindergarten.

(24)(a) "Private school student" means a student who:

(a) attends a private school; and

(b) is not counted by an LEA in membership for purposes of generating state or federal funding.

(25) "Program" means an instructional environment that does not meet the criteria to be classified as a school, as described in Subsection (27).

(26) "Public school student" means a student who:

(a) attends an LEA governed public school; and

(b) is counted by an LEA in membership for purposes of generating state or federal funding.

(27) "School" means an instructional environment that:

- (a) is governed by an LEA board;
- (b) has an assigned administrator;
- (c) has enrolled students that generate average daily membership hours during the school year;
- (d) has assigned instructional staff;
- (e) provides instruction in the Utah core standards;
- (f) has one or more grade groups in the range from kindergarten through grade 12; and
- (g) is not a program for students enrolled in another public school.

(28) "Social emotional learning" or "SEL" means the process through which students acquire and effectively apply the knowledge, attitude, and skills necessary to:

- (a) understand and manage emotions;
- (b) set and achieve positive goals;
- (c) feel and show empathy for others;
- (d) establish and maintain positive relationships;
- (e) make responsible decisions; and
- (f) self-advocate.

(29) "Split enrollment student" means a student who is:

- (a) regularly enrolled at two schools within two LEAs at the same time;

- (b) eligible for graduation and other services at both schools; and

- (c) subject to the split enrollment [provisions of] requirements in Rule R277-419, counted by each LEA in membership for purposes of generating state or federal funding for only those courses or subjects for which each LEA provides instruction.

(30) "State Charter School Board" or "SCSB" means the State Charter School Board created in Section 53G-5-201.

(31) "Student Threat assessment" means a prevention strategy that involves: (a) identifying student threats including to commit a violent act, (b) determining the seriousness of the threat, and (c) developing intervention plans that protect potential victims and address the underlying problem or conflict that stimulated the threatening behavior.

(32) "Superintendent" means the State Superintendent of Public Instruction or the Superintendent's designee.

(33) "Suspension" means:

- (a) an in-school suspension that is a temporary removal of a student from the student's regular classroom for disciplinary reasons for at least half a school day but remains under the direct supervision of school personnel; or

- (b) an out-of-school suspension that is the removal of a student from school grounds for disciplinary reasons unless the student removed is:

- (i) served solely under a Section 504 plan, where an out-of-school suspension is the excluding of the student from school for disciplinary purposes for one day or longer; or

- (ii) a student with disabilities under IDEA, where an out-of-school suspension is the temporary removal of the student from the student's regular school for disciplinary reasons to another setting.

(34) "Threat" means an expression of intent to harm someone that is direct, indirect, or implied and may be spoken, written, or expressed in some other way.

(35) "USDB" means the Utah Schools for the Deaf and the Blind.

(36) "USIMS" or "Utah Schools Information Management System" means a software system maintained by the Superintendent for collecting, processing, providing oversight, and reporting on education data for the state as required by Section 53E-3-518.

KEY: Board of Education, rules, definitions

Date of Last Change: ~~2024~~ **August 22, 2023**

Notice of Continuation: July 14, 2020

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4)

NOTICE OF PROPOSED RULE

TYPE OF FILING: New

Rule or Section Number:	R277-111	Filing ID: 56285
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Agency Information

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

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

General Information

2. Rule or section catchline:

R277-111. Board Oversight Framework

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

This rule is being created to provide a Utah State Board of Education (USBE) oversight framework.

4. Summary of the new rule or change:

This new rule is necessary to define minimum USBE oversight standards, including establishing an oversight framework for public education-related requirements which includes four categories of oversight.

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 new framework for oversight and monitoring gives guidelines for USBE to categorize programs but does not add any specific measurable costs to USBE budgets.

B) Local governments:

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

Local Education Agencies (LEAs) may see a slightly reduced administrative burden as a result of USBE providing clarity to oversight and monitoring processes.

There are no measurable savings or costs associated with these changes 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 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 measurable savings or costs associated with USBE providing clarity through the oversight framework.

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

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

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

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

Citation Information

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

Article X, Section 3	Subsection 53E-3-401(4)	Section 53E-3-301
Section 53F-1-104		

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:	03/04/2024
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9. This rule change MAY become effective on:	03/11/2024
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	01/16/2024
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R277. Education, Administration.

R277-111. Board Oversight Framework.

R277-111-1. 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-1-104, which requires the Board to monitor state-funded education programs and the expenditure of state funds in accordance with certain statutory provisions; and
 - (d) Section 53E-3-301, which requires the Superintendent to:
 - (i) administer programs assigned to the state board in accordance with the policies and the standards established by the state board; and
 - (ii) investigate matters pertaining to public schools.
- (2) The purpose of this rule is to define minimum Board oversight standards, including establishing an oversight framework for public education-related requirements.

R277-111-2. Definitions.

- (1) "Framework" means the Board Oversight Framework established in this rule.
- (2) "Oversight entity" means:
- (a) an LEA;
 - (b) a regional service agency, as that term is defined in Section 53G-4-410;

- (c) an entity that enters into a contract with the Board;
 - (i) to provide an educational good or service; or
 - (ii) as the Board is directed by the Legislature;
 - (d) a charter school authorizer, as that term is defined in Section 53G-5-102, if the charter school authorizer has an approved charter school;
 - (e) an institution of higher education that is associated with an educator preparation program, as defined in Section R277-303-2;
 - (f) an entity that receives a distribution of state funds through a grant program funded by the state board; or
 - (g) a nonfederal entity that receives an award through the Board to carry out part of a federal program.
- (3) "Program or set of requirements" means a requirement or set of requirements in state or federal law that is related to:
- (a) the public education system; and
 - (b) an oversight entity.

R277-111-3. Board Oversight of Public Education Programs and Requirements.

- (1) The Superintendent shall create a framework, as described in Section R277-114-4, that sets minimum standards for oversight of a program or set of requirements.
- (2) In accordance with Section R277-111-4, the Superintendent shall:
- (a) on or before July 31, 2029, designate each program or set of requirements into a framework category for the Board's consideration and codification in Board rule, that corresponds to the Board's oversight role for that program or set of requirements; and
 - (b) fulfill related oversight duties as described in rule and internal policy and procedures.
- (3) In accordance with Rule R277-114, the Board or Superintendent may take investigative or corrective action with regard to any program or set of requirements.
- (4) An oversight entity shall provide all information and documents requested by the Board or the Superintendent in a timely manner.

R277-111-4. Board Oversight Framework.

- (1) The framework shall consist of four categories that represent an increasing degree of Board oversight for each subsequent category.
- (2) Before categorizing a program or set of requirements for the Board's consideration, the Superintendent shall analyze the program or set of requirements based on the following factors:
- (a) the quantity and content of the legal requirements, including explicit monitoring requirements in state or federal law;
 - (b) the risk inherent in:
 - (i) the requirements; and
 - (ii) the individual oversight entities subject to the requirements, with regard to the effectiveness of each oversight entity's internal control system;
 - (c) all general and dedicated resources available to carry out the requirements, including:
 - (i) the restricted or unrestricted nature of applicable funding; and
 - (ii) options for using dedicated staff; and
 - (d) any other factors the Superintendent considers relevant to the analysis.
- (3) Based on the analysis described in Subsection (2), the Superintendent shall categorize a program or set of requirements in the framework as follows:

(a) a program or set of requirements belongs in category one if the Superintendent determines that:

(i) the Superintendent will not dedicate specific staff to the program or set of requirements; and

(ii) either:

(A) local control is critical to the purpose of the requirements; or

(B) the Superintendent will not use resources for implementing the requirements and will typically refer complaints and allegations back to the oversight entity for resolution;

(b) a program or set of requirements belongs in category two if the Superintendent determines that:

(i) the Superintendent will not specifically dedicate staff to the program or set of requirements; and

(ii) the Superintendent will provide assistance as needed to an oversight entity implementing the requirements;

(c) a program or set of requirements belongs in category three if the Superintendent determines:

(i) that the Superintendent will dedicate staff to the program or set of requirements; and

(ii) at least one of the following:

(A) that less frequent than annual desk monitoring is sufficient to fulfill the requirements; or

(B) that resources are limited to either completely fulfill monitoring requirements or to appropriately mitigate identified risks; and

(d) a program or set of requirements belongs in category four if the Superintendent determines that:

(i) the Superintendent will dedicate staff to the program or set of requirements;

(ii) annual or more frequent monitoring is necessary to ensure accountability of the oversight entity;

(iii) monitoring may include on-site visits; and

(iv) resources are sufficient to fulfill the requirements.

(4) When the Board makes, amends, or continues a rule regarding a program or set of requirements, the rule:

(a) shall state the Board's oversight objectives and related duties, based on the Superintendent's analysis and recommended framework categorization of the program or set of requirements; and

(b) may include, as necessary for the intended category of oversight:

(i) designing an internal control system to achieve the Board's oversight objectives and creating an implementation plan;

(ii) creating a mechanism to check the effectiveness of the oversight process; and

(iii) setting a standard for satisfactory outcomes for the program or set of requirements.

(5) For a program or set of requirements that needs monitoring, the details of the monitoring system shall be described:

(a) in the rule relating to the program or set of requirements; or

(b) in contract, if the program or set of requirements is established in contract.

R277-111-5. Framework Standards.

(1) The framework does not supersede or limit the Board's power of general control and supervision and the Board may vote to change part or all of the framework or categorizations within the framework at any time.

(2) The Board's internal audit function is not part of the framework and is not limited by the framework.

R277-111-6. Superintendent Status Reports on Framework.

The Superintendent shall provide a report to the Board that reviews and evaluates the effectiveness of the framework:

(1) before December 15, 2024; and

(2) at the request of the Board thereafter.

KEY: monitoring, oversight

Date of Last Change: 2024

Authorizing, and Implemented or Interpreted Law: Art X Sec 3: 53E-3-401(4); 53E-3-301; 53F-1-104

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R277-114	Filing ID: 56286
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Agency Information

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

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

General Information

2. Rule or section catchline:

R277-114. Corrective Action and Withdrawal or Reduction of Program Funds

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

This rule is being updated to provide updates based on work done in coordination with the development of Rule R277-111.

4. Summary of the new rule or change:

The amendments specifically change the title of the rule to "Response to Compliance and Related Issues".

The amendments also add definitions for "Framework" and "Oversight" and update related requirements.

(EDITOR'S NOTE: The proposed new Rule R277-111 is under ID 56285 in this issue, February 1, 2024, of the Bulletin.)

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.

As part of the Utah State Board of Education's (USBE) new oversight and monitoring framework, the changes provide clarity to USBE processes but do not add any measurable costs or savings for the USBE.

B) Local governments:

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

This rule change is intended to provide clarity in USBE oversight and monitoring for Local Education Agencies (LEAs). It could lead to slightly reduced administrative burdens for LEAs but there are no measurable costs or savings.

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 applies to 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 applies to 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 measurable costs associated with compliance to the rule changes for USBE or LEAs.

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

Regulatory Impact Table

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

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

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

Citation Information

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

Article X, Section 3	Section 53E-3-401	Subsection 53E-3-401(4)
Section 53F-1-104		

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:	03/04/2024
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9. This rule change MAY become effective on:	03/11/2024
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	01/16/2024
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R277. Education, Administration.

R277-114. ~~[Corrective Action and Withdrawal or Reduction of Program Funds]~~Response to Compliance and Related Issues.

R277-114-1. Authority and Purpose.

(1) This rule is authorized by:

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

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

(c) Subsection 53E-3-401(8)~~(e)~~, which allows the Board to make rules setting forth the procedures to be followed for enforcing Board rules~~[-]~~;

(d) Section 53F-1-104, which requires the Board to monitor state-funded education programs and the expenditure of state funds in accordance with certain statutory provisions; and

(e) Section 53E-3-301, which requires the Superintendent to:

(i) administer programs assigned to the state board in accordance with the policies and the standards established by the state board; and

(ii) investigate matters pertaining to public schools.

(2) The purpose of the rule is to provide procedures for ~~[public education program monitoring and corrective action for noncompliance with identified:~~

~~(a) program requirements;~~

~~(b) program accountability standards; and~~

~~(c) financial propriety.]responses to compliance and related issues, including corrective action and related appeals procedures.~~

R277-114-2. Definitions.

~~[(1) "Program" means a public education project, plan, or other activity required by:~~

~~(a) administrative rule;~~

~~(b) state law; or~~

~~(c) federal law.~~

~~(2) "Recipient" means an LEA, school, or subrecipient.~~

~~(3) "Subrecipient" means a non-Federal entity that receives an award through the Board to carry out part of a Federal program, or a non-Federal entity that is the direct awardee of other federal awards from a Federal awarding agency.]~~

~~(1) "Framework" means the Board Oversight Framework established in Rule R277-111.~~

~~(2) "Oversight entity" means the same as that term is defined in Rule R277-111.~~

~~(3) "Program or set of requirements" means the same as that term is defined in Rule R277-111.~~

R277-114-3. Use of Framework for Compliance and Related Issues.

~~(1)(a) Except as provided in Subsection (1)(b), for an alleged compliance issue regarding a program or set of requirements in framework category one or two, the Superintendent shall refer reports and complaints back to the oversight entity for resolution.~~

~~(b) The Superintendent may work informally with an oversight entity to resolve an alleged compliance issue arising under a program or set of requirements in framework category one or two, including discussing whether:~~

~~(i) the oversight entity had adequate time to comply; or~~

~~(ii) the oversight entity needs additional training.~~

~~(2) For a compliance issue arising under a program or set of requirements in framework category three or four, the Superintendent shall pursue formal corrective action:~~

~~(a) as described in Section R277-114-4 or R277-114-5; and~~

~~(b) in accordance with a state law, administrative rule, or a contract associated with the program or set of requirements.~~

~~(3)(a) In response to an alleged compliance issue regarding a program or set of requirements, Board leadership may work informally with the oversight entity toward resolving the issue, which efforts may include:~~

~~(i) for an issue regarding an LEA, meeting with the chair of the LEA's governing board, the LEA's superintendent, or charter director; or~~

~~(ii) considering whether training or additional time will allow the oversight entity to resolve the issue.~~

~~(b) Before Board leadership works informally with an oversight entity as described in Subsection (3)(a), Board leadership shall notify the Board member or members who represent the area where the oversight entity is located.~~

~~(c)(i) For an alleged compliance issue regarding a program or set of requirements uncategorized or in framework category one or two, the Board's audit committee may determine an appropriate method to investigate the alleged compliance issue, including requesting the Board's internal audit function to investigate the alleged issue in accordance with Rule R277-116.~~

(ii) If the Board's audit committee directs an investigation as described in Subsection (3)(c)(i), the entity conducting the investigation shall notify the oversight entity that the investigation will review an alleged compliance issue in accordance with this section.

(d) Based on the results of an investigation described in Subsection (3)(c), the Board may:

- (i) take no further action;
- (ii) resolve the issue informally;
- (iii) direct the Superintendent to pursue corrective action as described in Section R277-114-4 or R277-114-5; or
- (iv) take other action.

R277-114-[3]4. [Program Monitoring.]Corrective Action for Contract Requirements.

[~~(1) For each program, the Superintendent shall design and implement a consistent monitoring plan or process that includes standards for both program outcomes and program financial compliance.~~

[~~(2) The Superintendent shall notify all recipients of the initiation of or changes to any monitoring plan or process.~~

[~~(3) The Superintendent shall monitor compliance with:~~

- [~~(a) program outcomes and requirements;~~
- [~~(b) reporting requirements; and~~
- [~~(c) financial requirements.~~

[~~(4) An LEA shall provide the Superintendent all requested information or documents to comply with this Section.]~~

For corrective action related to a program or set of requirements established or culminating in a contract between the Board and an oversight entity, the Superintendent shall take corrective action in accordance with the provisions of the contract.

R277-114-[4]5. [Corrective Action Plans.]Corrective Action for Non-Contractual Requirements.

(1) For corrective action related to a program or set of requirements not established in contract, the Superintendent may take corrective action as described in this section.

(2)(a) In taking corrective action under this section, the Superintendent shall act in accordance with state and federal law applicable to the program or set of requirements.

(b) Before the Superintendent places an oversight entity on a corrective action plan as described in Subsection (3), the Superintendent shall:

(i) provide written notice of initiating the process 30 days before the day on which the corrective action plan is finalized; and

(ii) during the 30 days, discuss with the LEA's superintendent, charter director or the oversight entity's primary contact the nature of the issue and try to resolve the issue informally, including discussing whether:

- (A) the oversight entity has adequate time to comply; or
- (B) the oversight entity needs additional training.

(c) If the corrective action plan is due to an oversight entity's failure to provide information, the notice described in Subsection (2)(b)(i) shall include a statement confirming that the information is not available elsewhere.

[(1)](3) The Superintendent [shall]may place [a recipient]an oversight entity on a corrective action plan [when a recipient]if the Board, the Superintendent, or an external or internal audit determines that the oversight entity:

[(a) does not demonstrate satisfactory program outcomes as described by the monitoring plan or process;

~~[(b)](a) demonstrates non-compliance with published expectations for program [requirements]outcomes or allowable program expenditures;[or]~~

(b) demonstrates unsatisfactory outcomes in performance as evidenced by audit results or framework category three or four monitoring;

(c) demonstrates financial fraud, waste, or abuse; or

[(e)](d) [does]did not comply with a request[s] to provide timely, accurate and complete program or financial information, [as described by the monitoring plan or process]in accordance with oversight procedures.

[(2)](4) [The Superintendent shall clearly outline in a]A corrective action plan shall contain the following elements:

(a) [all areas of noncompliance]the background information that led to corrective action;

(b) each identified issue, including the reasons for the corrective action plan as described in Subsection (3);

(c) details of the identified issue, based on evidence gathered, including dates;

[(b)](d) the specific conditions [to be met as a result of noncompliance]the oversight entity must meet as a result of the issues;

[(e)](c) steps required to satisfy the corrective action plan and estimated time frame for completing the steps;[and

~~(d) a reasonable time frame for the recipient to correct identified issues.]~~

(f) a procedure for communication during the course of the corrective action, including:

(i) designation of a primary contact at the oversight entity;

(ii) a schedule for the frequency of updates provided by the contact;

(iii) the format of required updates; and

(iv) the designated recipient of the updates;

(g) a procedure to close the corrective action, including:

(i) designation of an individual authorized to close the corrective action;

(ii) the criteria for closing the corrective action;

(iii) an estimated schedule for closing the corrective action; and

(iv) how the authorized individual will communicate closure to the oversight entity; and

(h) notice of the option for appeal as described in Section R277-114-6.

(5) In creating a corrective action plan, the Superintendent shall emphasize providing technical support to assist the oversight entity to achieve compliance and performance.

[(3)](6) The specific conditions described in Subsection [(2)](4)(b) may include:

(a) requiring the oversight entity to obtain technical or management support, including program assistance such as mentoring;

(b) requiring the oversight entity to receive payment[s] as a reimbursement[s] [rather than]instead of advance payment[s];

[(b)](c) [withholding authority to proceed to the next step until receipt of]requiring evidence of acceptable performance within a given period [of performance]before the oversight entity may proceed to the next corrective action step;

[~~(e) requiring additional, more detailed financial reports;~~

(d) requiring [additional project monitoring]more frequent or more intensive monitoring than what is required from the related program or set of requirements;

(e) requiring ~~the recipient to obtain technical or management assistance; or~~ additional or more detailed financial or compliance reports; or

(f) establishing additional prior approvals.

~~[(4) A]~~(7) The Superintendent may also include in a corrective action plan ~~may also include~~ a provision and ~~a~~ timeline for:

(a) training for the oversight entity's staff;

(b) a referral for risk-based monitoring, for a program or set of requirements that does not already perform risk-based monitoring;

~~[(b)]~~(c) a referral for an audit or other agreed-upon procedure by:

(i) an external auditor; or

(ii) the Board's internal audit ~~[department]~~section, with approval of the Board's Audit Committee;

~~[(c)]~~(d) periodic meetings between ~~a recipient~~an oversight entity administrator or governing board member and the ~~[State]~~Superintendent ~~[of Public Instruction]~~or a Deputy Superintendent; and

~~[(d)]~~(e) a planned appearance[s] before the Board or a Board committee to provide status updates~~;~~ and

(e) training for the recipient's staff.

~~(5) If the recipient~~-(8) For an oversight entity that is a charter school~~;~~ the Superintendent shall:

(a) consult with the charter authorizer in the creation of the corrective action plan; and

(b) report regularly to the charter authorizer about the status of the ~~[noncompliant program recipient]~~oversight entity.

~~[(6)]~~(9) The Superintendent may ~~employ~~implement escalating restrictive conditions in a corrective action plan based on:

(a) the severity of the violation as determined by the program's monitoring plan or process; or

(b) repeated violations by ~~a recipient~~an oversight entity.

~~[(7)]~~(10)(a) The Superintendent may include penalties for non-compliance with a corrective action plan in accordance with Subsection 53E-3-401(8).

(b) If the Superintendent determines to withhold funding as part of a corrective action plan, the corrective action plan will state:

(i) the circumstances that led to the determination;

(ii) a timeline for withholding funds; and

(iii) the steps the oversight entity is required to satisfy to reinstate funding.

~~[(8)]~~(11) The Superintendent shall give notice and a hard or electronic copy of the corrective action plan ~~[in writing]~~to:

(a) ~~[the recipient's administrators];~~the designated primary contact described in Subsection (4)(d)(i);

(b) the respective ~~[recipient's]~~oversight entity's governing board; and

(c) the charter school authorizer, ~~[if applicable]~~in accordance with Subsection (8).

~~[(9) The]~~(12) As requested, the Superintendent shall report to the Board ~~[regularly]~~about the status of ~~[noncompliant program recipients]~~a corrective action plan in force for an oversight entity.

R277-114-[5]6. ~~[Recipient Appeals.]~~Corrective Action Appeals.

(1) ~~[A recipient]~~An oversight entity may ~~[file]~~submit an appeal to the Board ~~[of any adverse decision of the Superintendent resulting from a corrective action plan or penalty.]relating to:~~

(a) a reason the Superintendent is imposing the corrective action plan;

(b) the requirements of a corrective action plan; or

(c) an action the Superintendent takes to impose or implement a corrective action plan.

(2) ~~[An appeal must be made in writing and within 30 days of the date of the Superintendent's action.]For an appeal described in Subsection (1), the oversight entity shall:~~

(a) state in the appeal the plan requirement or action with which the oversight entity disagrees; and

(b) submit the appeal to the Board in accordance with Section R277-102-3.

(3) Except for corrective action subject to 34 CFR 76.783, the Board may:

(a) review the appeal as a full board;~~[-or]~~

(b) refer the matter to the Board audit committee to make a recommendation to the Board for action;~~or~~

(c) identify another method to review the appeal.

KEY: monitoring, corrective action, oversight~~[programs, noncompliance, corrective action]~~

Date of Last Change: 2024~~[March 12, 2020]~~

Notice of Continuation: January 13, 2020

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53E-3-401(4); 53F-1-104~~[Art X Sec 3; 53E-3-401(4)]~~

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R277-304	Filing ID: 56287
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Agency Information

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

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

General Information

2. Rule or section catchline:

R277-304. Teacher Preparation Programs

3. Purpose of the new rule or reason for the change:
This rule is being updated to incorporate by reference new General Teaching Preparation Competencies and Elementary Content competencies, and to also make updates to the requirements related to General Teacher Preparation.
4. Summary of the new rule or change:
The amendments specifically incorporate the General Teacher Preparation Competencies dated January 2024, and the Elementary Content Competencies dated January 2024.

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 updates to educator preparation competencies and the requirement to provide the Utah State Board of Education (USBE) with evidence that a teacher preparation program complies with requirements do not add specific or measurable costs for USBE or any other state entity.
B) Local governments:
This rule change is not expected to have fiscal impact on local governments' revenues or expenditures.
Local Education Agencies (LEAs) with educator preparation programs may need to submit evidence to USBE to be approved as a program; USBE does not estimate a measurable fiscal impact as they programs can simply submit a syllabus or program outline to USBE for consideration. There are no measurable fiscal impacts 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 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 measurable compliance costs for USBE or LEAs to update the reference to educator competencies and provide evidence a preparation program can prepare educators prior to approval by USBE.
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)
Regulatory Impact Table
Fiscal Cost
FY2024
FY2025
FY2026
State Government
\$0
\$0
\$0
Local Governments
\$0
\$0
\$0
Small Businesses
\$0
\$0
\$0
Non-Small Businesses
\$0
\$0
\$0
Other Persons
\$0
\$0
\$0
Total Fiscal Cost
\$0
\$0
\$0
Fiscal Benefits
FY2024
FY2025
FY2026
State Government
\$0
\$0
\$0
Local Governments
\$0
\$0
\$0
Small Businesses
\$0
\$0
\$0
Non-Small Businesses
\$0
\$0
\$0

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

Citation Information

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

Incorporations by Reference Information

7. Incorporations by Reference:	
A) This rule adds, updates, or removes the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	General Teacher Preparation Competencies
Publisher	Utah State Board of Education
Issue Date	January 2024

B) This rule adds, updates, or removes the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	Educator Preparation Program Competencies for Elementary Literacy
Publisher	Utah State Board of Education
Issue Date	May 2022

C) This rule adds, updates, or removes the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	The Elementary Content Competencies
Publisher	Utah State Board of Education
Issue Date	January 2024

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: 03/04/2024

9. This rule change MAY become effective on: 03/11/2024

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:	Angie Stallings, Deputy Superintendent of Policy	Date:	01/16/2024
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R277. Education, Administration.**R277-304. Teacher Preparation Programs.****R277-304-1. Authority and Purpose.**

(1) This rule is authorized by:

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

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

(c) Subsection 53E-6-201(3)(a), which ~~allows~~ directs the Board to make rules to establish the criteria for obtaining an educator license.

(2)(a) The purpose of this rule is to specify the standards which the Board expects of a teacher preparation institution ~~[prior to]~~ before program approval in specified areas.

(b) The standards in this rule apply to the specific educational area and grade level for which the preparation program is designed.

R277-304-2. Definitions.

(1)(a) "Career and technical education" or "CTE" means organized educational programs or competencies which directly or indirectly prepare students for employment, or for additional preparation leading to employment, in occupations where entry requirements do not generally require a baccalaureate or advanced degree.

(b) CTE programs provide all students a continuous education system, driven by a student's college and career readiness plan, through competency-based instruction, culminating in essential life skills, certified occupational skills, and meaningful employment.

(2) "Clinical experience" means a structured opportunity in which a program candidate is mentored by a licensed educator and evaluated by a teacher leader, school administrator, or university preparation program faculty member, in order to develop and demonstrate competency in the skills and knowledge necessary to be an effective teacher, in a physical classroom, which may include experiences in a virtual classroom.

(3) "Competency" means evidence through demonstration in a higher education or pre-12 classroom setting of successful application of knowledge and skills.

(4)(a) "Council for Exceptional Children" or "CEC" means an international professional organization dedicated to improving the educational success of both individuals with disabilities and individuals with gifts and talents.

(b) CEC advocates for appropriate governmental policies, sets professional standards, provides professional development, advocates for individuals with exceptionalities, and helps professionals obtain conditions and resources necessary for effective professional practice.

(5) "Essential Elements" means the alternate academic achievement standards for students with significant cognitive disabilities, established by the Board in the Special Education Rules Manual, dated October 2016, incorporated by reference in Section R277-750-2.

(6) "Diverse student populations" means unique student groups as identified by:

- (a) gender;
- (b) race;
- (c) ethnicity;
- (d) disability;
- (e) sexual orientation;
- (f) academic learning needs; or
- (g) linguistic needs.

(7)(a) "Multi-tiered system of supports" or "MTSS" means a framework for integrating assessment and intervention to maximize student achievement, reduce behavior problems, and increase long-term success.

(b) The combination of systematic implementation of increasingly intensive intervention, sometime referred to as tiers, and carefully monitoring students' progress, distinguishes MTSS from typical prevention measures.

(c) Emphasis, in MTSS, is placed on ensuring interventions are implemented effectively.

(8) "Personalize" means to engage all students with high expectations for their learning goals and to empower each learner to take ownership of their individual strengths, needs, and interests, while tailoring flexible supports to maximize student growth and competence.

(9) "Utah Core Standards" means the core standards established by the Board in Rule R277-700 for grades K-12 and the Utah Early Childhood Core Standards, February 2013 edition.

R277-304-3. Incorporation by Reference of Educator Preparation Program Competencies ~~for Elementary Literacy~~.

(1) This rule incorporates by reference:

(a) the General Teacher Preparation Competencies dated January 2024;

(b) the Educator Preparation Program Competencies for Elementary Literacy dated May 2022[-]; and

(c) the Elementary Content Competencies dated January 2024.

(2) A copy of ~~this~~ these documents is located at:

(a) <https://schools.utah.gov/administrativerules/documentsincorporated>; and

(b) the offices of the Utah State Board of Education.

R277-304-4. General Teacher Preparation.

~~[Prior to]~~ Before approval by the Board, a teacher preparation program shall provide evidence that the program:

(1) prepares candidates to meet the Utah Effective Teaching Standards in Rule R277-~~530~~ 330;

(2) prepares candidates to teach:

(a) the Utah Core Standards; and

(b) the Essential Elements, as appropriate to a candidate's prospective area of licensure as established by the Board;

(3) includes school-based clinical experiences for a candidate to observe, practice skills, and reflect on teaching that:

(a) are significant in number, depth, breadth, and duration;

(b) are progressively more complex; and

(c) include working with all types of students;

(4) for candidates who enroll in a preparation program before September 1, 2025, requires competency in:

(a) content and content[-]specific pedagogy appropriate for the area of licensure;

(b) knowledge of the Educator Standards contained in Rule R277-217;

(c) designing, administering, and reviewing formative and summative assessments in a meaningful and ethical manner;

(d) improving student outcomes by:

(i) using student assessment data, both formative and summative;

(ii) analyzing instructional practices; and

(iii) making necessary adjustments to personalize learning;

(e) using strategies to promote active student engagement;

(f) systematically designing instruction toward a specific learning goal by:

(i) providing tier one and tier two instruction and intervention on the Utah core standards including the use of competency-based learning;

(ii) using a variety of evidence-based instructional strategies, including explicit instruction and scaffolded supports;

(iii) integrating technology to support and meaningfully supplement the learning of students;

(iv) designing developmentally appropriate and authentic learning experiences;

(v) developing higher order thinking and metacognitive skills; and

(vi) integrating cross-disciplinary skills, such as literacy and numeracy, into instruction;

(g) providing positive and constructive feedback to guide students' learning and behavior;

(h) establishing a consistent, organized, and respectful learning environment, including:

(i) positive behavior interventions and supports within a multi-tiered system of support;

(ii) classroom procedures and routines;

(iii) trauma-informed practices; and

(iv) restorative practices;

(i) knowledge and skills to assist in the identification of and instruction for students with disabilities in the general classroom, including:

(i) knowledge of the IDEA and Section 504 of the Rehabilitation Act;

(ii) knowledge of the role of non-special-education teachers in the education of students with disabilities;

(iii) knowledge and skills in implementing least restrictive behavior interventions;

(iv) skills in implementing and assessing the results of interventions; and

(v) skills in the implementation of an educational program with accommodations, modifications, services, and supports established by an IEP or a 504 plan for students with disabilities in the general education classroom;

(j) knowledge and skills designed to meet the needs of diverse student populations in the general education classroom, including:

(i) allowing students alternative ways to demonstrate learning that are sensitive to student diversity;

(ii) creating an environment that is sensitive to multiple experiences and diversity;

(iii) designing, adapting, and delivering instruction to address each student's diverse learning strengths and needs; and

(iv) incorporating language development into planning, instruction, and intervention for students learning English, using their first language as an asset while supporting development of English proficiency; and

(k) effectively communicating and collaborating with parents, colleagues, and administration[-];

(5) for candidates who enroll in a preparation program on or after September 1, 2025, requires competence in the General Teacher Preparation Competencies;

([5]6) for a program [applicant]candidate accepted on or after January 1, 2020, [require]provides multiple opportunities for a program [applicant]candidate to successfully demonstrate application of knowledge and skills gained through the program in one or more clinical experiences in collaboration with a licensed teacher over an extended period[-of time] in each of the following competencies:

(a) implementing the planning and design, delivery, facilitation, assessment, evaluation, and reflection of a unit of instruction;

(b) revising instructional plans for future implementation or reteaching concepts as appropriate;

(c) implementing the accommodations, modifications, services, and supports as outlined in a student's IEP or 504 plan;

(d) evaluating student artifacts and assessments;

(e) establishing and maintaining classroom procedures and routines that include positive behavior interventions and supports;

(f) establishing and maintaining a positive learning climate;

(g) reflecting on the teaching process and justifying instructional decisions;

(h) participating in at least one IEP meeting or parental consultation regarding a student that the program [applicant]candidate has instructed; and

(i) consulting and collaborating with qualified personnel, such as a [mental health or behavior professional]school counselor or school social worker, regarding the emotional well-being of students [and responding appropriately];

([6]7) include consideration of a candidate's dispositions and suitability for teaching; and

([7]8) include plans for candidate remediation and exit counseling, if [applicable]appropriate.

R277-304-5. Early Childhood and Elementary Preparation Programs.

(1) ~~[Prior to]~~Before approval by the Board, a preparation program for early childhood education or elementary education shall demonstrate how the program requires candidate competency in:

(a) the areas outlined in Section R277-304-3;

(b) early childhood development and learning;

(c) for candidates who enroll in a preparation program before September 1, 2025, the appropriate content knowledge needed to teach:

(i) the science of literacy instruction including:

(A) phonemic awareness;

(B) phonics;

(C) fluency;

(D) vocabulary;

(E) comprehension; and

(vi) the Educator Preparation Program Competencies for Elementary Literacy;

(ii) the science of mathematics instruction, including:

(A) quantitative reasoning;

(B) problem solving;

(C) representation;

(D) numeracy; and

(E) a balance of procedural and conceptual understanding;

(iii) physical and life science;

(iv) health and physical education;

(v) social studies; and

(vi) fine arts; or

(2) for candidates who enroll in a preparation program on or after September 1, 2025, the Elementary Content Competencies and the Educator Preparation Program Competencies for Early Literacy.

([2]3) For a program [applicant]candidate accepted after January 1, 2020, a preparation program for early childhood or elementary education shall [require]provide multiple opportunities for a program [applicant]candidate to successfully demonstrate application of knowledge and skills gained through the program in a school-based setting in each of the following:

(a) all requirements outlined in Subsections R277-304-3(4) through (7);

(b) demonstrating content specific pedagogy in each of the areas outlined in Subsection R277-304-5(1);

(c) diagnosing students struggling with reading and planning and implementing remediation for those students; and

(d) diagnosing students struggling with mathematics and planning and implementing remediation for those students.

([3]4) An educator preparation program shall apply the standards in this Section R277-304-4 to the specific age group or grade level for which the preparation program [of preparation-]is designed.

(a) An early childhood education program shall focus primarily on early childhood development and learning in kindergarten through grade 3.

(b) An elementary program shall include both early childhood development and learning and elementary content and pedagogy in kindergarten through grade 6.

R277-304-6. Secondary Preparation Programs.

(1) ~~[Prior to]~~Before approval by the Board, a secondary preparation program shall demonstrate that it requires competency in:

(a) all content competencies established by the Superintendent for a professional educator license in at least one endorsement;

(b) all areas outlined in Subsections R277-304-3(4) through (7);

(c) including literacy and quantitative learning objectives in content specific classes in alignment with the Utah Core Standards; and

(d) planning instruction and assessment in content-specific teams and in cross-curricular teams.

(2) For a program ~~[applicant]~~candidate accepted after January 1, 2020, a secondary preparation program shall ~~[require]~~provide multiple opportunities for a program ~~[applicant]~~candidate to successfully demonstrate application of knowledge and skills gained through the program in a school-based setting in each of the following:

(a) all requirements outlined in Subsections R277-304-3(4) through (7); and

(b) ensuring student safety and learning in educational labs or shops and extra-curricular settings.

R277-304-7. Special Education and Preschool Special Education Programs.

(1) ~~[Prior to]~~Before approval by the Board, a special education or preschool special education preparation program shall demonstrate that:

(a) ~~[be]~~the program is operated by or partnered with a Utah institution of higher education or the Utah State Board of Education;

(b) aligned with the 2012 Council for Exceptional Children Initial Preparation Standards as informed by the Council for Exceptional Children Specialty Sets for Initial Preparation Programs in one or more of the following special education areas:

(i) Mild/Moderate Disabilities;

(ii) Severe Disabilities;

(iii) Deaf and Hard of Hearing;

(iv) Blind and Visually Impaired;

(v) Deafblind; or

(vi) Preschool Special Education (Birth-Age 5);

(c) the program requires the passage of a special education content knowledge assessment approved by the Superintendent;

(d) the program requires the passage of a Braille assessment approved by the Superintendent for a program in the Blind and Visually Impaired area;

(e) the program requires competency in:

(i) all areas detailed in Subsections R277-304-~~[3]~~4(4) through (7);

(ii) legal and ethical issues surrounding special education, including:

(A) the IDEA;

(B) the Special Education Rules Manual incorporated by reference in Section R277-750-2; and

(C) all other applicable statutes and Board rules;

(iii) working with other school personnel to implement and evaluate academic, behavioral, and developmental supports and interventions for students with disabilities within a multi-tiered system of supports as appropriate for the area of licensure;

(iv) training in and supervising the services and supports provided to students with disabilities by general education teachers, related service providers, and paraprofessionals; and

(v) providing specially designed instruction, including content specific pedagogy, as per IEPs, to students with disabilities, including:

(A) the Utah Core Standards; and

(B) the Essential Elements as appropriate to a candidate's prospective area of licensure as established by the Board;

(C) skills in assessing and addressing the educational, developmental, and functional needs and progress of students with disabilities;

(D) skills in implementing and assessing the results of research and evidence-based interventions for students with disabilities; and

(E) skills in implementing an educational program with accommodations, modifications, services, and supports established by an IEP for students with disabilities.

(2) For a program ~~[applicant]~~candidate accepted after January 1, 2020, a special education or preschool special education preparation program shall require multiple opportunities for a program ~~[applicant]~~candidate to successfully demonstrate application of knowledge and skills gained through the program in a school-based setting in each of the following:

(a) all requirements outlined in Subsections R277-304-3(4) through (7);

(b) creating learning goals and objectives for a student with disabilities that are specific, measurable, time-bound, and aligned to identified student needs and the Utah Core Standards;

(c) designing or adapting learning environments for diverse student populations that encourage active participation in individual and group activities;

(d) monitoring school compliance with the provisions of multiple student's IEP and Section 504 plans;

(e) conducting a student IEP meeting under the supervision of a licensed special education teacher;

(f) using knowledge of measurement principles and practices to interpret assessment information in making instructional, eligibility, program, and placement decisions for students with disabilities, including those from culturally or linguistically diverse backgrounds;

(g) communicating with parents of students with disabilities to ensure they are informed regarding the progress of their student and their right to due process; and

(h) if the program is designed to prepare an individual for a special education license area, developing and implementing a secondary transition plan as it related to post-secondary education and training, competitive employment, and independent living.

R277-304-8. Deaf Education Preparation Programs.

(1) ~~[Prior to]~~Before approval by the Board, a deaf education preparation program shall:

(a) be operated by or partnered with a Utah institution of higher education or the Utah State Board of Education;

(b) be aligned with the National Association of State Directors of Special Education, Inc., Optimizing Outcomes for Students who are Deaf or Hard of Hearing, Educational Service Guidelines, Third Edition;

(c) be focused on one or more of the following areas:

(i) teaching students who are deaf or hard of hearing from birth to age five using both listening and spoken language strategies and American Sign Language;

- (ii) teaching students who are deaf or hard of hearing with listening and spoken language strategies; or
- (iii) teaching students who are deaf or hard of hearing with strategies that promote the development of American Sign Language and English literacy across the curriculum;
- (d) require the passage of a deaf education content knowledge assessment approved by the Superintendent;
- (e) require competency in:
 - (i) the areas detailed in Subsections R277-304-3(4) through (7).
 - (ii) legal and ethical issues surrounding special education, including:
 - (A) the IDEA;
 - (B) the Special Education Rules Manual incorporated by reference in Section R277-750-2; and
 - (C) all other applicable statutes and Board rules;
 - (iii) addressing specific linguistic and cultural needs of deaf and hard of hearing students throughout the curriculum;
 - (iv) skills for incorporating language into all aspects of the curriculum;
 - (v) pedagogical skills unique to teaching reading, writing, mathematics, and other content areas to deaf and hard of hearing students;
 - (vi) basic fluency in the use of American Sign Language;
 - (vii) knowledge of the audiological and physiological components of audition;
 - (viii) skills for teaching speech to deaf and hard of hearing students;
 - (ix) the socio-cultural and psychological implications of hearing loss; and
 - (x) assessing and addressing the educational needs and educational progress of deaf and hard of hearing students.
- (2) For a program ~~[applicant]~~candidate accepted after January 1, 2020, a deaf or hard of hearing education preparation program shall require multiple opportunities for a program ~~[applicant]~~candidate to successfully demonstrate application of knowledge and skills gained through the program in a school-based setting in each of the following:
 - (a) all requirements outlined in Subsections R277-304-3(4) through (7);
 - (b) for a program focused on Subsection R277-304-7(1)(c)(i):
 - (i) assessing early childhood language development and assessment in American Sign Language and spoken English;
 - (ii) working with families with students who are deaf or hard of hearing while respecting a variety of communication modalities;
 - (iii) integrating language, speech, and listening everyday activities;
 - (iv) sharing knowledge with families with students who are deaf or hard of hearing about the complexities of deaf culture, including norms and behaviors of the deaf community;
 - (v) developing auditory perception in children and educating parents about developmental milestones for listening skills; and
 - (vi) proficiency in American Sign Language as demonstrate by passing an assessment approved by the Superintendent;
 - (c) for a program focused on Subsection R277-304-7(1)(c)(ii):

- (i) developing auditory perception in children and strategies for developing listening and spoken language in deaf and hard of hearing students;
- (ii) demonstrating understanding and expertise regarding early childhood spoken language development;
- (iii) involving family members with students who are deaf or hard of hearing in learning and therapeutic activities;
- (iv) integrating speech, listening, and spoken language in preschool and early elementary content areas; and
- (v) integrating current listening technology, including troubleshooting such technology; and
- (d) for a program focused on Subsection R277-304-7(1)(c)(iii):
 - (i) integrating American Sign Language into instruction of core academic content for all school-age students;
 - (ii) enhancing bilingual literacy of students who are deaf or hard of hearing in both American Sign Language and English;
 - (iii) integrating respect and understanding of deaf culture into instruction;
 - (iv) demonstrating understanding and expertise regarding American Sign Language, language development; and
 - (v) proficiency in American Sign Language as demonstrated by passing an assessment approved by the Superintendent.

R277-304-9. Career and Technical Education Preparation Programs.

- (1) ~~[Prior to]~~Before approval by the Board, a CTE teacher preparation program designed for individuals that do not hold a bachelor's degree or higher shall:
 - (a) focus on one or more of the following areas:
 - (i) family and consumer sciences;
 - (ii) health sciences;
 - (iii) information technology;
 - (iv) skilled and technical sciences; or
 - (v) work-based learning;
 - (b) require that candidates have six years of documented, related occupational experiences within the 10 years ~~[prior to]~~before the program application in an approved CTE license area;
 - (c) require competency in all areas detailed in Section R277-304-5;
 - (d) ~~[F]~~for a program ~~[applicant]~~candidate accepted after January 1, 2020, a CTE preparation program shall require multiple opportunities for a program ~~[applicant]~~candidate to successfully demonstrate application of knowledge and skills gained through the program in a school-based setting in all requirements outlined in Section R277-304-5; and
 - (e) require candidates to hold the applicable license or certificate issued by the Utah State Department of Commerce, Division of ~~Occupational and~~ Professional Licensing in any area where such licensure or certification exists.
- (2) A program may count an associate's degree in a related area for up to two years of occupational experience to satisfy the requirement in Subsection R277-304-8(1)(b).
- (3)(a) An approved program may request a waiver from the Superintendent of the occupational experience required for a candidate if the candidate has passed an approved competency examination in the respective field at or above the passing score established by the Superintendent.

(b) The Superintendent may grant a waiver under Subsection (2)(a) for up to five years from the date the candidate passed the examination.

KEY: teacher preparation, programs, educators

Date of Last Change: 2024|June 22, 2020|

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53E-6-201

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R277-716	Filing ID: 56288
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Agency Information

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

General Information

2. Rule or section catchline:
R277-716. Alternative Language Services for Utah Students
3. Purpose of the new rule or reason for the change:
This rule is being updated to bring it into alignment with changes to the state-wide Elementary and Secondary Education Act (ESEA) plan.
4. Summary of the new rule or change:
The amendments specifically add the definition for "Board", and make updates regarding LEA responsibilities.

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 change largely clarifies requirements for Local Education Agencies (LEAs) and does not add any measurable costs or savings for the Utah State Board of Education (USBE).

B) Local governments:

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

This rule change clarifies LEA responsibilities related to language placement services in this rule. These responsibilities have already been federal requirements and do not add measurable costs for LEAs.

Also, notice requirements are clarified to be within 30 days of the beginning of school. As the notice requirements have already been in existence, this will not add 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 USBE and LEAs.

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

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

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

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

This only affects USBE and LEAs.

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

There are no compliance costs for affected persons.

The changes for clarity in this rule do not add measurable costs for USBE or LEAs.

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

Regulatory Impact Table

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

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

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

Citation Information

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

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

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

A) Comments will be accepted until: 03/04/2024

9. This rule change MAY become effective on: 03/11/2024

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:	Angie Stallings, Deputy Superintendent of Policy	Date:	01/16/2024
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R277. Education, Administration.

R277-716. Alternative Language Services for Utah Students.

R277-716-1. Authority and Purpose.

(1) This rule is authorized by:

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

(b) Title III; and

(c) Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities.

(2) The purpose of this rule is:

(a) to address the requirements of Title III and implementing regulations and case law;

(b) to clearly define the respective responsibilities of the Superintendent and LEAs:

(i) in identifying students learning English who are currently enrolled in Utah schools; and

(ii) in providing evidence-based language instruction educational programs to identified students; and

(c) ~~[in order]~~ to:

(i) meet Title III requirements;

(ii) meet funding eligibility requirements; and

(iii) appropriately distribute Title III funds for students learning English to LEAs with approved plans in the Utah Grants Management System.

R277-716-2. Definitions.

(1) "Alternative language services program" or "ALS program" means an evidence-based language instruction educational program used to achieve English proficiency and academic progress of identified students.

(2) "Alternative language services" or "ALS" means language services designed to meet the education needs of all students learning English so that students are able to participate effectively in the regular instruction program.

(3) "Board" means the same as defined in Subsection R277-100-2(3).

(4) "Consolidated State Plan" means the application for federal funds authorized under the Elementary and Secondary Education Act, or ESEA, 20 U.S.C. Sec. 1001, et seq., as amended, and other federal sources submitted annually to the Superintendent.

(5) "Evidence-based language instruction education program" means evidence-based methods, recommended by the Superintendent, that meet the "Non-Regulatory Guidance: Using Evidence to Strengthen Education Investments" developed by the U.S. Department of Education.

(6) "Immigrant children and youth" for purposes of this rule means individuals who:

- (a) are ages 3 through 21;
- (b) were born outside of the United States; and
- (c) have not been attending one or more schools in any one or more states of the United States for more than three full academic years.

(7) "Instructional Materials Commission" means a Commission appointed by the Board to evaluate instructional materials for recommendation by the Board consistent with Title 53E, Chapter 4, State Instructional Materials Commission.

(8) "Language instruction educational program" means an instructional course:

(a) in which a student learning English is placed for ~~the purpose of~~ developing and attaining English proficiency, while meeting challenging state academic standards;

(b) that may make instructional use of both English and a child's native language to enable the child to attain and develop English proficiency; and

(c) that may include the participation of English proficient children if the course is designed to enable all participating children to become proficient in English and a second language.

(9) "Student learning English" means an individual who:

(a) who has sufficient difficulty speaking, reading, writing, or understanding the English language, and whose difficulties may deny the individual the opportunity to:

(i) learn successfully in classrooms where the language of instruction is English; or

(ii) participate fully in society;

(b) who was not born in the United States or whose native language is a language other than English and who comes from an environment where a language other than English is dominant; or

(c) who is an American Indian or Alaskan native or who is a native resident of the outlying areas and comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency.

(10) "TESOL" means Teachers of English to Speakers of Other Languages.

(11) "TESOL Standards" mean the Pre-K-12 English Language Proficiency Standards established by TESOL International.

(12) "Title III" means federal provisions for providing language instruction to students learning English and immigrant children and youth under 20 U.S.C. 6801, et seq.

R277-716-3. Superintendent Responsibilities.

(1) The Superintendent shall make available in Utah's approved Consolidated State Plan for Title III ~~plan~~ and require all LEAs to adhere to identification and placement procedures to support

evidence-based language instruction education programs for students learning English.

(2) The Superintendent shall develop and require all LEAs to administer a Board approved annual English language proficiency assessment to measure fluency level and progress in:

- (a) listening;
- (b) speaking;
- (c) reading; and
- (d) writing.

(3) The Superintendent shall apply a formula and distribute funds to LEAs for identification and services to students learning English and their families.

(a) The formula shall provide an amount based upon eligible students and available funds, to be distributed to all eligible LEAs and consortia consistent with Title III requirements.

(b) The formula shall provide for an additional amount to qualifying LEAs based on numbers of immigrant children and youth.

(4) An LEA that receives Title III funds under this rule shall provide the following to the Superintendent:

(a) assurances and documentation maintained of services or a program used to serve students; and

(b) assurances and documentation maintained of required parent notification.

(5) The Superintendent shall provide timelines to LEAs for meeting Title III requirements.

(6) The Superintendent shall assist and provide training to LEAs in development of ALS and Title III services to students learning English who do not meet the state designated annual growth goals in both increased English proficiency and academic standards.

(7) An LEA shall maintain:

(a) an ALS budget plan;

(b) a plan for delivering student instruction as a requirement in the monitoring section of the Utah Grants Management System;

(c) ALS assessments to date;

(d) a sample of parent notification required under Subsection R277-716-4(7); and

(e) documentation or evidence of progress in the state accountability system.

(8) The Superintendent shall conduct on-site monitoring of all funded ALS programs at least once every five years.

(9) The Superintendent shall provide technical assistance during on-site monitoring and as the Superintendent deems necessary.

R277-716-4. LEA Responsibilities.

(1) An LEA that receives funds under Title III shall assure that the LEA has a written plan that:

(a) includes an identification process for students learning English, including a Board approved home language survey and a language proficiency for program placement, that is implemented with student registration;

(b) uses a Board approved valid and reliable assessment of a student's English proficiency in:

- (i) listening;
- (ii) speaking;
- (iii) reading; and
- (iv) writing;

(c) provides an evidence-based language instruction educational program based on Board[-] approved ~~Utah~~ English Language Proficiency Standards;

(d) ~~[establishes]~~ uses the Board approved student exit criteria from ALS programs or services; and

(e) includes the count of students learning English, by classification, ~~[prior to]~~ before July 1 of each year.

(2) Following receipt of Title III funds, an LEA shall:

(a) determine what type of Title III ALS services are available and appropriate for each student identified in need of ALS services, including:

- (i) dual immersion;
- (ii) ESL content-based; and
- (iii) sheltered instruction;

(b) implement an approved language instruction educational program designed to achieve English proficiency and academic progress of an identified student;

(c) ensure that all identified students learning English receive English language instructional services in the least segregated environment, consistent with Subsection R277-716-4 (1)(c);

(d) provide adequate staff development to assist a teacher and staff in supporting students learning English; and

(e) provide necessary staff with:

(i) curricular materials approved by the Instructional Materials Commission consistent with Rule R277-469; and

(ii) facilities for adequate and effective training.

(3) Following evaluation of student achievement and services, an LEA shall:

(a) analyze results and determine the program's success or failure; and

(b) modify a program or services that are not effective.

(4) An LEA shall have a policy to identify and serve students who qualify for services under IDEA, including:

(a) implementing procedures and training, consistent with federal regulations and state special education rules, that ensure students learning English are not misidentified as students with disabilities due to their inability to speak and understand English;

(b) reviewing the assessment results of a student's language proficiency in English and other language ~~[prior to]~~ before initiating evaluation activities, including selecting additional assessment tools;

(c) conducting assessments for IDEA eligibility determination and educational programming in a student's native language when appropriate;

(d) using nonverbal assessment tools when appropriate;

(e) ensuring that accurate information regarding a student's language proficiency in English and another language is considered in evaluating assessment results;

(f) considering results from assessments administered both in English and in a student's native language;

(g) ensuring that all required written notices and communications with a parent who is not proficient in English are provided in the parent's preferred language, including utilizing interpretation services; and

(h) coordinating the language instruction educational program and special education and related services to ensure that the IEP is implemented as written.

(5) An LEA shall provide information and training to staff that:

(a) limited English proficiency is not a disability; and

(b) if there is evidence that a student with limited English proficiency has a disability, the staff shall refer the student for possible evaluation for eligibility under IDEA.

(6)(a) An LEA shall notify a parent who is not proficient in English of the LEA's required activities.

(b) A school shall provide information about required and optional school activities in a parent's preferred language.

(c) An LEA shall provide interpretation and translation services for a parent at:

- (i) registration;
- (ii) an IEP meeting;
- (iii) an SEOP meeting;
- (iv) a parent-teacher conference; and
- (v) a student disciplinary meeting.

(d) An LEA shall provide annual notice to a parent of a student placed in a language instruction educational program ~~[at the beginning of the school year or no later than 30 days after identification]~~ within 30 days of the first day of school.

(e) If a student has been identified as requiring ALS services after the ~~[school year has started]~~ first month of school, the LEA shall notify the student's parent within ~~[44]~~ ten school days of the student's identification and placement.

(7) A required notice described in Subsection (6) shall include:

(a) the student's English proficiency level;

(b) how the student's English proficiency level was assessed;

(c) the status of the student's academic achievement;

(d) the methods of instruction proposed to increase language acquisition, including using both the student's native language and English if necessary;

(e) specifics regarding how the methods of instruction will help the child learn English and meet age-appropriate academic achievement standards for grade promotion and graduation; and

(f) the specific exit requirements for the program including:

(i) the student's expected rate of transition from the program into a classroom that is not tailored for a student learning English; and

(ii) the student's expected high school graduation date if funds appropriated consistent with this rule are used for a secondary school student.

R277-716-5. Teacher Qualifications.

(1) A Utah educator who is assigned to provide instruction in a language acquisition instructional program shall comply with state ESL endorsement requirements.

(2) A Utah educator whose primary assignment is to provide English language instruction to a student learning English shall have:

(a) an ESL endorsement, through an approved program based on the TESOL Standards;

(b) an advanced degree or certification in teaching English as a Second Language, including an approved competency program consistent with Board rule; or

(c) a bilingual endorsement consistent with the educator's assignment.

R277-716-6. Miscellaneous Provisions.

(1)(a) An LEA that generates less than \$10,000 from the LEA's count of students learning English, may form a consortium with other similar LEAs.

(b) A consortium described in Subsection (1)(a) shall designate a fiscal agent and shall submit all budget and reporting information from all ~~[of]~~ the member LEAs of the consortium.

(c) Each member of a consortium shall submit plans and materials to the fiscal agent of the consortium for final reporting submission to the Superintendent.

(d) A fiscal agent of a consortium described in Subsection (1)(a) shall assume all responsibility of an LEA under Section R277-716-4.

(2) No LEA or consortium may withhold more than ~~two percent~~ 2% of Title III funding for administrative costs in serving students learning English.

KEY: alternative language services

Date of Last Change: 2024[April 8, 2021]

Notice of Continuation: February 10, 2021

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4)

NOTICE OF PROPOSED RULE

TYPE OF FILING: New

Rule or Section Number:	R392-304	Filing ID: 56273
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Agency Information

1. Department:	Health and Human Services		
Agency:	Population Health,	Health,	Environmental Health
Room number:	Second Floor		
Building:	Cannon Health Building		
Street address:	288 N 1460 W		
City, state and zip:	Salt Lake City, UT 84116		
Mailing address:	PO Box 142102		
City, state and zip:	Salt Lake City, UT 84114-2102		
Contact persons:			
Name:	Phone:	Email:	
Karl Hartman	801-538-6191	khartman@utah.gov	
Sarah Cheshire	801-538-6191	scheshire@utah.gov	
Please address questions regarding information on this notice to the persons listed above.			

General Information

2. Rule or section catchline:
R392-304. Artificial Swimming Lagoons
3. Purpose of the new rule or reason for the change:
Currently, there is no rule to regulate design, construction, sanitation, and safety of recreational bodies of water intended for swimming that have more than 30,000 square feet of surface area.

An artificial swimming lagoon (ASL) is an artificial body of water used for recreational purposes, including swimming, with more than 30,000 square feet of surface area that includes one or more designated swimming areas (DSA), which are areas located within an artificial swimming lagoon that are visually separated from other areas of a lagoon by a rope, float line, or another method.

Section 26B-7-402 charges the Department of Health and Human Services (Department) to establish and enforce, or provide for the enforcement of, minimum rules of sanitation necessary to protect public health at public swimming pools, among other listed public facilities.

4. Summary of the new rule or change:

This is a new rule to regulate aquatic designs and technologies specific to ASLs.

This proposed rule establishes minimum standards for the sanitation, design, construction, operation, and maintenance of an ASL, as defined by this rule, and provides for the prevention and control of hazards associated with ASLs that are likely to adversely affect public health and wellness including risk factors contributing to injury, sickness, death, disability, and the spread of disease.

Fiscal Information

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

A) State budget:

No anticipated cost or savings. This rule is not expected to have any impact on state government revenues or expenditures because it does not affect existing operations at the state level.

B) Local governments:

No anticipated cost or savings. This rule is not expected to have any impact on local governments' revenues or expenditures because it does not affect existing operations at the local level.

For example, the proposed rule does not require the local health department to review plans, conduct inspections, or issue permits.

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

This rule is not expected to have any impact on small businesses because there is only one business currently operating, and it is considered a non-small business.

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

The single ASL facility currently operating in Utah meets the definition of a non-small business.

This rule is not expected to have a fiscal impact on this non-small business due to coming into compliance because the provisions of this rule are a compilation of current industry standards. The non-small business is currently operating in compliance with the provisions of this proposed rule.

Though the proposed rule does not require a permit, a regulating agency may opt to require a permit at a future date. There may be costs associated with operating permit fees, though the exact cost is inestimable due to a lack of data, but it is unlikely to be higher than \$2,500 annually.

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 anticipated cost or savings because the changes do not affect existing operations.

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

No anticipated cost or savings because the changes do not affect existing operations.

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	\$2,500	\$2,500	\$2,500
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$2,500	\$2,500	\$2,500
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	(\$2,500)	(\$2,500)	(\$2,500)

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	Section 26B-7-402	
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Incorporations by Reference Information

7. Incorporations by Reference:

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

Official Title of Materials Incorporated (from title page)	American National Standard for Suction Outlet Fitting Assemblies (SOFA) for Use in Pools, Spas, and Hot Tubs
Publisher	ANSI/APSP/ICC-16
Issue Date	March 19, 2021
Issue or Version	2017

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: 03/04/2024

9. This rule change MAY become effective on: 03/11/2024

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:	Tracy S. Gruber, Executive Director	Date:	01/03/2024
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R392. Health and Human Services, Population Health, Environmental Health.

R392-304. Artificial Swimming Lagoons.

R392-304-1. Authority and Purpose.

(1) This rule is authorized by Sections 26B-1-202 and 26B-7-402.

(2) This rule establishes minimum standards for the sanitation, design, construction, operation, and maintenance of an artificial swimming lagoon, as defined by this rule, and provides for the prevention and control of hazards associated with artificial swimming lagoons that are likely to adversely affect public health and wellness including risk factors contributing to injury, sickness, death, disability, and the spread of disease.

R392-304-2. Applicability.

(1) Unless exempted in Subsection R392-304-2(2), this rule applies to any person who owns or operates an artificial swimming lagoon.

(2) This rule does not apply to:

(a) natural water bodies, including public ponds, lakes, reservoirs, streams, rivers, or canals;

(b) privately owned waters that do not fit the definition of an artificial swimming lagoon, such as:

(i) privately owned water ski parks; or

(ii) privately owned ponds, lakes, reservoirs, streams, canals, rivers, or other similar bodies of water; or

(c) a body of water whose primary intent is already regulated by another rule promulgated under Title R392, Health and Human Services, Population Health, Environmental Health.

R392-304-3. Definitions.

(1) "Artificial swimming lagoon" or "ASL" means an artificial body of water used for recreational purposes, including swimming, with more than 30,000 square feet of surface area that:

(a) is a man-made water impoundment designed to visually mimic a natural body of water, such as a large pond or small lake;

(b) includes at least one or more designated swimming areas;

(c) incorporates a water containment system constructed of an impervious material such as a liner, concrete shell, or another impervious material;

(d) provides an artificial water treatment system to control water quality, including pathogenic microorganisms, that includes a disinfection system and a method or combination of methods for:

(i) circulation;

(ii) filtration;

(iii) skimming; or

(iv) turbidity control; and

(e) prevents the growth or habitat of aquatic animal life and aquatic vegetation.

(2) "Bather" means a person at an artificial swimming lagoon who has contact with water of a designated swimming area through spray or partial or total immersion. The term bather as defined, also includes staff members, and refers to those users who can be exposed to contaminated water and those who can potentially contaminate the water.

(3) "Bather load" means the number of persons allowed by the operator to use the designated swimming area of an artificial swimming lagoon at any one time or specified period.

(4) "Closed-loop system" means a water recirculation system in which water is introduced into the lagoon and is treated and recirculated for continuous use in the lagoon. A closed-loop system is not a flow-through system.

(5) "Deck" means an area immediately adjacent to or attached to the lagoon that is specifically constructed or installed for sitting, standing, or walking. The term does not include a sandy beach area adjacent to a sloped entry.

(6) "Department" means the Utah Department of Health and Human Services.

(7) "Designated swimming area" or "DSA" means a pool located within an artificial swimming lagoon that is visually separated from other areas of a lagoon by a rope, float line, or another method except when the entire artificial lagoon is identified as a designated swimming area.

(8) "Diving area" means the area of a DSA that is designated and designed for diving.

(9) "Executive committee" means the applicable Governance executive committee.

(10) "Executive Director" means the Utah Department of Health and Human Services executive director or a designated representative.

(11) "Facility" means any premises, building, equipment, and accessory object related to the operation of an artificial swimming lagoon.

(12) "Free available chlorine" or "free chlorine residual" means the portion of the total available chlorine that is not combined with other molecules and is present as hypochlorous acid (HOCl) and hypochlorite ion (OCl).

(13) "Governance" means the committee described in Subsection 26B-1-207(3).

(14) "Local health officer" means the health officer of the local health department having jurisdiction or a designated representative.

(15) "Local health department" has the meaning defined in Subsection 26A-1-102(5).

(16) "mg/L" means milligrams per liter and is an equivalent measure to parts per million (ppm).

(17) "Operator" means a person who owns, manages, or controls an artificial swimming lagoon or a designated representative.

(18) "Oxidation" means the process of changing the chemical structure of water contaminants to allow the contaminant to be more readily removed from the water or made more soluble in the water.

(19) "Oxidation Reduction Potential" or "ORP" means a measure of the tendency for a solution to either gain or lose electrons; higher, or more positive, oxidation-reduction potential indicates more potential for oxidation. This technology is commonly used in automatic disinfectant feed controllers.

(20) "Plumbing Code" means International Plumbing Code as incorporated and amended in Title 15A, State Construction and Fire Codes Act.

(21) "Plumbing fixture" means a receptacle or device that is connected to the potable water supply system of the facility, including drinking fountains, handwashing stations, and showers.

(22) "Pool" means an artificially constructed structure designed for total or partial bather immersion in, or contact with water, that is designated for recreational swimming, wading, or bathing.

(23) "Requester" means a person who requests a variance on behalf of a regulated individual, business, or entity.

(24) "Restroom facility" means a room or space that contains not less than one toilet and one handwashing station.

(25)(a) "Shower" means a device that sprays non-recirculated, potable water on the body to remove biological, physical, or chemical contaminants from bathers.

(b) "Cleansing Shower" means a shower within a hygiene facility using warm water and soap. The purpose of this type of shower is to remove contaminants, including perianal fecal material, sweat, skin cells, personal care products, and dirt, before bathers enter an artificial swimming lagoon.

(c) "Rinse Shower" means a shower typically located on the pool deck area with ambient temperature water. The primary purpose is to remove dirt, sand, or organic material before entering the designated swimming area of an artificial swimming lagoon to reduce the introduction of contaminants and the formation of disinfection by-products.

(26) "Underwater shelf" means a horizontal non-sloping floor connected to the edge of the designated swimming area of an artificial swimming lagoon that is between four and 24 inches below the deck surface, which creates a shallow area for bathers to lounge and play.

(27) "Variance" means a written document issued by the Department in response to a request meeting the requirements of Section R392-304-23 that authorizes a modification or waiver of one or more requirements of a rule promulgated under Title R392, Health and Human Services, Population Health, Environmental Health."

R392-304-4. General Requirements.

(1) Any artificial swimming lagoon regulated under Section R392-304-2 shall meet the requirements of this rule.

(2) If the Executive Director or local health officer determines that any facility is dangerous, unsafe, unsanitary, a nuisance, or a menace to life, health, or property, the Executive Director or local health officer may order construction or operational changes consistent with the requirements of this rule to existing facilities.

R392-304-5. Design Requirements and Plan Approval.

The operator shall ensure that:

(1) construction plans are certified and stamped by a designing engineer or architect who is licensed by the Utah Division of Professional Licensing (DOPL) and contains the following verifications:

(a) the structure is stable;

(b) the shape of a DSA and location of appurtenances are designed such that the following are not impaired:

(i) DSA water circulation;

(ii) DSA water quality; and

(iii) bather safety;

(c) each DSA is designed with a circulation system, meeting the requirements of Section R392-304-16, that incorporates treatment and filtration equipment, as required in Sections R394-304-17 and R392-304-18;

(d) in climates where a facility is subject to freezing temperatures, parts of the facility subject to freezing damage is designed to provide protection from damage due to freezing; and

(e) the facility has adequate fencing and barriers, showers, hand sinks, toilets, and dressing areas; and

(2) the DSA is constructed in accordance with the certified and stamped plans required in Subsection (1)(a).

R392-304-6. Plumbing.

The operator shall ensure that:

(1) each plumbing fixture is:

(a) supplied with potable water adequate for human consumption and other domestic uses; and

(b) designed, installed, and operated according to the requirements set forth by:

(i) Plumbing Code;

(ii) the Utah Department of Environmental Quality, Division of Drinking Water under Title R309, Drinking Water; and

(iii) local health department regulations; and

(2) the drinking water system is protected against backflow contamination.

R392-304-7. Artificial Swimming Lagoon Source Water Quality.

(1) If the source water for the DSA of an artificial swimming lagoon is not from a public drinking water system as described in Rule R309-100, Administration: Drinking Water Program, the operator shall:

(a) collect a sample of the source water;

(b) submit the collected sample for analysis to a laboratory that is certified under Rule R444-14, Certification of Environmental Laboratories; and

(c) have laboratory analysis performed initially and for each five-year period thereafter to determine the levels of contaminants listed in Table 1.

(2) If the source water analysis report described in Subsection (1) indicates that a contaminant level is greater than or equal to any of the standards in Table 1, the operator shall:

(a) discontinue the use of the source water; or

(b) implement an ongoing treatment process to provide source water that complies with Table 1.

Table 1 Source Water Contaminants and MCLs	
Contaminant	Maximum Contaminant Level (MCL)
Antimony	0.006 mg/L
Arsenic	0.010 mg/L
Barium	2 mg/L
Beryllium	0.004 mg/L
Cadmium	0.005 mg/L
Chromium	0.1 mg/L
Copper	1.3 mg/L
Cyanide, as free cyanide	0.2 mg/L
Fluoride	4.0 mg/L
Lead	0.015 mg/L
Mercury	0.002 mg/L
Nitrate	10 mg/L
Nitrite	1 mg/L
Selenium	0.05 mg/L
Thallium	0.002 mg/L

(3) The operator shall maintain a closed-loop system for water recirculation.

(4) If the water source for the DSA of an artificial swimming lagoon is connected to a public or private potable water source, the operator shall ensure that:

(a) the water source system is protected from a backflow or back-siphonage event with a backflow preventer, such as an air gap, a mechanical backflow prevention device, or another means or method in accordance with Plumbing Code; and

(b) the backflow preventer does not connect to the discharge side of a recirculation pump of an artificial swimming lagoon.

R392-304-8. Wastewater.

The operator shall ensure that an artificial swimming lagoon facility complies with Section R392-302-7.

R392-304-9. Solid Waste.

The operator shall ensure that an artificial swimming lagoon facility complies with Section R392-302-8.

R392-304-10. Construction Materials.

The operator shall ensure that each DSA of an artificial swimming lagoon and the appurtenances necessary for its proper function and operation comply with the construction material requirements described in Section R392-302-9.

R392-304-11. Floor Slopes.

The operator shall ensure that the floor slope of each DSA of an artificial swimming lagoon complies with Section R392-302-10.

R392-304-12. Walls.

The operator shall ensure that the walls of each DSA of an artificial swimming lagoon comply with Section R392-302-11.

R392-304-13. Underwater Seating and Underwater Shelves.

(1) The operator shall ensure that each underwater seat or bench located in a DSA complies with Subsection R392-302-11(6).

(2) The operator shall ensure that each underwater lounge chair is:

(a) specifically designed and constructed for immersion in water;

(b) constructed with slip-resistant materials;

(c) installed in such a manner that:

(i) the chair back is above the designed water level; and

(ii) the underwater lounge chair does not constitute a safety hazard for bathers; and

(d) visually set apart to be visible to persons on the ground above the lounge chair.

(3) The operator shall ensure that each underwater shelf:

(a) has a line that marks the extent of the shelf within two inches of its leading edge on both the horizontal and vertical surface, except in the case of a horizontal shelf that terminates with a sloping floor surface, and the line is:

(i) two inches in width; and

(ii) a contrasting dark color for maximum visual distinction;

(b) has a maximum depth of 24 inches; and

(c) does not constitute a safety hazard.

(4) If the underwater shelf terminates with a sloping floor surface, the operator shall ensure that the floor surface complies with Section R392-304-11.

R392-304-14. Designated Swimming Area Entry and Exits.

(1) The operator shall ensure that, except for a DSA with a sloped entry, each DSA with a perimeter greater than 75 feet:

(a) has no fewer than two means of entry and exit, such as a wheelchair ramp, a set of stairs with a handrail, recessed steps with grab rails, or a ladder;

(b) has entry and exit points that are not more than 75 feet apart from each other; and

(c) has entry and exit points that comply with Section R392-302-13.

(2) The operator shall ensure that each sloped entry and exit point complies with Subsection R392-302-13(7).

(3) A DSA may have fewer than two means of entry and exit if the perimeter of a DSA is less than 75 feet.

R392-304-15. Decks and Walkways.

The operator shall ensure that:

(1) a deck or walkway is provided at each entry or exit into the DSA, except for a sloped entry, zero entry, or beach entry; and

(2) where a deck is provided, each deck shall:

(a) be at least four feet wide;

(b) slope away from the artificial swimming lagoon to a deck drain at a grade of 1/4 inch to 3/8 inch per linear foot;

(c) be constructed of material that is:

(i) rated to withstand frequent and heavy exposure to water;

(ii) rated for outdoor use; and

(iii) slip-resistant; and

(d) be free of open joints or gaps larger than 1/4 inch or vertical elevations exceeding 1/4 inch, except for expansion joints, which shall be filled with appropriate materials to allow for expansion.

R392-304-16. Circulation.

The operator shall ensure that:

(1) except for periods of maintenance, a circulation system is provided and in continuous operation that provides skimming, filtration, and water circulation;

(2) the circulation system is designed and constructed to comply with Subsections R392-302-19(1)(h) through R392-302-19(1)(l);

(3) the piping in an artificial swimming lagoon complies with Subsection R392-302-19(3); and

(4) any suction outlet fitting assembly used in the DSA of an artificial swimming lagoon circulation system complies with the ANSI/APSP/ICC-16 2017, American National Standard for Suction Outlet Fitting Assemblies (SOFA) for Use in Pools, Spas, and Hot Tubs along with the provisional amendment approved on March 19, 2021, which is incorporated by reference.

R392-304-17. Filtration.

The manager shall ensure that an artificial swimming lagoon has a filtration system serving a DSA that complies with Section R392-302-23, except for requirements for design rate of flow, and that:

(1) each filter is designed to be easily cleaned according to the manufacturer's instructions; and

(2) the operator has easy access to the filtration surfaces for inspection and maintenance.

R392-304-18. Designated Swimming Area Water Quality and Disinfection.

(1) The operator shall ensure that the DSA of an artificial swimming lagoon has sufficient clarity to easily see the deepest part of the DSA. This may be measured by a Secchi disk or a four-inch by four-inch marker tile.

(2) The operator shall ensure that the DSA of an artificial swimming lagoon is treated by a disinfectant that complies with Subsections R392-302-25(1)(a) through R392-302-25(1)(f), except that:

(a) the minimum concentrations for the DSA treatment chemicals are found in Table 2 in this rule rather than Table 3 in Rule R392-302; and

(b) the maximum concentration for cyanuric acid described in Subsection R392-302-25(1)(f)(ii)(B) is reduced to 50 milligrams per liter.

(3) The operator shall install automated, manual, or remotely managed chemical feed controllers that comply with Subsections R392-302-24(1)(a), R392-302-24(3)(c), and R392-302-24(4)(b).

(4) The operator shall install an ORP controller that complies with Subsection R392-302-24(2) to monitor the oxidizing potential of the water if an oxidizer is used for disinfection.

(5) The operator shall provide a portable poolside water quality test kit that is:

(a) compatible with the disinfectant in use;

(b) maintained in and stored according to the manufacturer's instructions; and

(c) protected from extreme heat and cold, exposure to water, chemicals, or any other element or environment that could adversely affect the efficacy of the test kit.

(6) The operator may use a remote water quality testing system but may not substitute the remote testing system results for onsite operation and maintenance.

(7)(a) The operator shall perform testing at a frequency that verifies the DSA is meeting the water quality conditions required in Table 2.

(b) At a minimum, tests for disinfectant levels and pH in each DSA shall be performed before the area is open for bather use and at least every 24 hours of operation.

(8) The operator shall:

(a) collect a water sample from each DSA at least once per month;

(b) submit the sample to a laboratory approved under Rule R444-14, Certification of Environmental Laboratories, to perform total coliform and heterotrophic plate count testing; and

(c) ensure that the collected sample is analyzed in a laboratory for total coliform and heterotrophic plate count using methods allowed under Section R444-14-4.

(9) The operator shall review the sample results to determine if the sample has failed the bacteriological quality standard as determined by the following sample failure criteria:

(a) the sample contains more than 200 colony forming units (CFUs) per milliliter, as determined by the heterotrophic plate count; or

(b) the sample indicates the presence of coliform bacteria or contains more than one CFU of coliform bacteria per 100 milliliters.

(10)(a) For any test that does not meet the chemical, bacteriological, or physical parameters described in this section, the operator shall repeat the test within 24 hours of receiving the initial test results.

(b) If the repeat testing shows that the water continues to be outside of the parameters described in this section, the manager shall close any DSA to swimming and contact recreation until additional testing results show that the water quality parameters are within the required range.

TABLE 2
Chemical parameters in each DSA of an ASL

Parameter	Minimum Value	Maximum Value
Free chlorine	0.5 ppm	10.0 ppm
Bromine	2.5 ppm	8.0 ppm
Combined chlorine	None	0.5 ppm
pH	7.0	7.8
Cyanuric acid	None	50 ppm

R392-304-19. Bather Load.

(1) The operator shall ensure that 15 square feet of surface area per bather is provided if the depth of the DSA is four feet or less.

(2) The operator shall ensure that 25 square feet of surface area per bather is provided if the depth of the DSA is greater than four feet.

(3) The operator shall post a sign, as required in Subsection R392-304-22(1), stating the maximum bather load for each DSA.

R392-304-20. Facility Operations.

(1) The operator shall ensure that:

(a) each bather has access to a toilet and handwashing station in a restroom facility that:

(i) is located with convenient access for bathers;

(ii) is located no further than 200 feet walking distance and in clear view of each DSA; and

(iii) is clearly identified; and

(b) the minimum number of toilets, handwash sinks, and drinking fountains provided complies with Plumbing Code.

(2) The operator shall ensure that:

(a) each restroom facility is supplied with:

(i) soap and toilet tissue in suitable dispensers;

(ii) individual disposable towels or other hand drying fixture, such as an air dryer; and

(iii) a solid, durable, covered, and easily cleanable waste receptacle; and

(b) each plumbing fixture is:

(i) designed to be easily cleanable, and withstand frequent cleaning and disinfecting; and

(ii) maintained in an operable, clean, and sanitary condition.

(3) The operator shall ensure that:

(a) each restroom is constructed of materials that have smooth, non-slip surfaces, and are impervious to moisture;

(b) the floor of a restroom and shower facility slopes to a drain and is constructed to prevent accumulation of water;

(c) carpeting is not installed on restroom or shower floors; and

(d) junctions between walls and floors are coved.

(4) The operator shall ensure that a minimum of one rinse shower is provided for each DSA of an artificial swimming lagoon that:

(a) is located near an entry point to the DSA; and

(b) the floor is sloped to drain wastewater away from the DSA into a sanitary sewer or storm sewer, according to applicable plumbing codes.

(5) If the operator provides a cleansing shower, the cleansing shower facility shall comply with Subsection R392-302-28(4).

(6) If the operator provides dressing rooms, the dressing room facility shall comply with Section R392-302-27.

(7) The operator shall ensure that when a DSA is open for bather use, the following auxiliary facilities are available:

(a) restroom facilities;

(b) rinse showers;

(c) dressing rooms, if applicable; and

(d) cleansing showers, if applicable.

(8) The operator shall ensure that a DSA open during nighttime hours, as described in Subsection (8), has the following areas illuminated for visibility:

(a) depth markers;

(b) safety signs;

(c) facility entrances;

(d) restroom facilities;

(e) safety equipment; and

(f) deck areas and walkways.

(9) If a DSA is open to bathers during nighttime hours, which are 30 minutes before sunset to 30 minutes after sunrise, the operator shall ensure that:

(a) 15 horizontal foot candles (161 lux) are provided at the water surface of the designated swimming area; and

(b) each auxiliary facility described in Subsection (6) is illuminated.

(10) The operator shall ensure that an artificial swimming lagoon is managed by a qualified technician who has been certified or recertified by a training and testing program approved by the Department.

(11) The operator shall develop an operation, maintenance, and sanitation plan that includes:

(a) the following staffing roles and responsibilities:

(i) individuals assigned to perform and record testing;

(ii) location within the DSA where the testing parameters are collected;

(iii) testing frequency; and

(iv) record keeping of testing results; and

(b) an emergency action plan with:

(i) procedures for daily bather supervision;

(ii) injury prevention and response;

(iii) emergency actions; and

(iv) response to an accidental fecal release.

(12) The operator shall ensure that records pertaining to the daily operation of the artificial swimming lagoon are retained according to Subsection R392-302-34(2).

(13) The operator shall ensure that food or drink is not consumed within ten feet of the water's edge of any DSA of an artificial swimming lagoon.

(14) The operator shall ensure that glass, ceramic, or breakable containers are not allowed within the interior of the artificial swimming lagoon fencing or barrier described in Subsection R392-304-21(11)(a).

R392-304-21. Safety Standards.

(1) The operator shall ensure that each chemical used for water treatment, including disinfection and pH control, is labeled, stored, and handled according to the manufacturer's chemical Safety Data Sheet (SDS).

(2) The operator shall ensure that chemicals are stored in an area that is:

(a) closed to unauthorized access; and

(b) protected from:

(i) exposure to moisture;

(ii) extreme temperatures;

(iii) accidental spills; and

(iv) exposure to incompatible materials.

(3) The operator shall ensure that trained individuals handling water quality chemicals are provided with personal protective equipment.

(4) The operator shall ensure that trained lifeguard service personnel are provided for a DSA of an artificial swimming lagoon during periods of use that:

(a) the DSA is open to the general public;

(b) the DSA is used for recreation of youth groups, such as youth camps, childcare, or school groups;

(c) bathers enter the water from any height above the deck or wall, including diving boards, drop slides, zip lines, or climbing walls;

(d) the DSA allows unsupervised children under the age of 14 years; or

(e) alcohol is sold or served within the artificial swimming lagoon fencing or barrier described in Subsection R392-304-21(11)(a).

(5) If lifeguard service is not required as described in Subsection (4), the operator shall post a sign, as required in Subsection R392-304-22(3), near each entrance of a DSA indicating that there is no lifeguard on duty.

(6) If lifeguard service is required as outlined in Subsection (4), the operator shall have a lifeguard action plan that:

(a) defines the number of lifeguards necessary for proper surveillance of each DSA;

(b) establishes lifeguard certifications and qualifications; and

(c) describes the zones of surveillance, rotation procedures, and alteration of lifeguard tasks.

(7) The operator shall ensure that lifesaving equipment described in Subsection (7)(c):

(a) is placed in a conspicuous location near each DSA;

(b) complies with Subsections R392-302-30(2) and R392-302-30(3); and

(c) includes the following equipment:

(i) a Coast Guard-approved ring buoy with an attached rope at least 50 feet in length;

(ii) a life pole or shepherd's crook-type pole with blunted ends that is a minimum length of 12 feet; and

(iii) a first aid kit that:

(A) is accessible to bathers;

(B) is stored in a manner that prevents contamination;

(C) is restocked as needed; and

(D) includes a minimum of the following unexpired items:

(I) adhesive bandages of various sizes and applications;

(II) compression bandages;

(III) sterile gauze pads;

(IV) medical tape;

- (V) scissors;
- (VI) instant cold packs;
- (VII) antiseptic wipes;
- (VIII) sting relief wipes;
- (IX) eyewash solution;
- (X) single-use gloves; and
- (XI) tweezers.
- (8) The operator shall ensure that emergency phone numbers, including 911, are posted to comply with Subsection R392-304-22(3).
- (9) The operator shall ensure that:
 - (a) the DSA maximum water depth is plainly marked; and
 - (b) depth markings are placed in a manner that notifies bathers of water depths before entering the DSA of an artificial swimming lagoon.
- (10) If diving areas are included in the design of a DSA, the operator shall ensure that each diving area and appurtenance complies with Subsection R392-302-12(1).
- (11) The operator shall ensure that fencing or barriers:
 - (a) are installed to prevent unauthorized entry into the artificial swimming lagoon from the perimeter of the facility; and
 - (b) comply with the applicable local regulations and ordinances.

R392-304-22. Signs.

- (1) The operator shall ensure that:
 - (a) signs required in this rule are placed in a conspicuous area, as described in Subsection (1)(c), to alert and inform bathers of expected and prohibited behaviors and other applicable information;
 - (b) signs are written in a lettering style, stroke width, spacing, and contrast with the background such that the sign is clearly visible; and
 - (c) a sign that states the location of restroom facilities, emergency exits, and safety rules is placed:
 - (i) at the entrance of the artificial swimming lagoon facility; and
 - (ii) at access points of each DSA;
- (2) The operator shall ensure that each rules of conduct sign complies with Subsection (1) and includes the following language:
 - (a) "Animals are prohibited inside the artificial swimming lagoon facility";
 - (b) "Glass or ceramic containers are prohibited inside the artificial swimming lagoon facility";
 - (c) "Bathers must shower before entering the water";
 - (d) "Entering the water if ill with diarrhea is prohibited"; and
 - (e) "Diapering shall only be done in designated restroom facilities".
- (3) The operator shall ensure that each safety sign complies with Subsection (1) and includes the following:
 - (a) maximum bather load;
 - (b) emergency phone numbers, including 911;
 - (c) "No lifeguard on duty", if applicable;
 - (d) hours of operation;
 - (e) maximum depth of the artificial swimming lagoon; and
 - (f) any other additional restrictions such as:
 - (i) watercraft rules;
 - (ii) personal flotation device recommendations; or
 - (iii) floating platform rules.

R392-304-23. Variances.

- (1) A person may request a variance when a technology, process, procedure, or other variation otherwise not allowed by this rule would provide alternative design, construction, or operational conditions that maintain protection of the health and safety of the public and the environment in a manner that is at least equivalent to the current requirements.
- (2) Any request for a variance shall follow the process outlined in this section.
- (3) The requester shall provide data showing that any alternative technology, process, or procedure will be at least as protective of the health and safety of the public and the environment as the current requirements. Each variance request shall be submitted to the Department and shall include at least the following:
 - (a) name of the business for which the variance is being requested;
 - (b) designated point of contact and contact information of the business for which the variance is being requested;
 - (c) location of the facility or establishment for which the variance is being requested;
 - (d) citation of each section or subsection of rule to which the variance is being requested;
 - (e) a statement as to why the applicant cannot comply with the section or subsection of rule to which the variance is being requested;
 - (f) the nature and duration of the variance being requested;
 - (g) a statement of how the intent of the rule will be met and the reasons why the health and safety of the public and the environment would not be endangered or jeopardized if the variance was granted;
 - (h) technical justification or a detailed explanation of the variance conditions that provide the protection of the health and safety of the public and the environment for each applicable section or subsection of rule;
 - (i) a full description of any policies, procedures, or equipment that the applicant proposes to use to rectify any potential increase in risks to the health and safety of the public and the environment created by granting the variance; and
 - (j) operation and maintenance requirements of the variance condition.
- (4) Upon receiving a variance request that meets the requirements of Subsections (1), (2), and (3), the Department shall:
 - (a) notify the local health officer having jurisdiction that a variance request was received; and
 - (b) present the variance request to the local health officer having jurisdiction and the executive committee.
- (5) The executive committee may:
 - (a) make an immediate determination based on the information contained in the variance request; or
 - (b) form an ad hoc committee to:
 - (i) evaluate the variance request; and
 - (ii) produce a written report to be presented to the executive committee for consideration.
- (6) After deliberation of the variance request information or ad hoc committee report, the executive committee shall provide a recommendation to Governance to:
 - (a) reject the variance request with a written justification; or
 - (b) approve the variance request with or without additional provisions.

(7) Governance may recommend to the Executive Director to:

(a) reject the variance request without further consideration with a written justification; or

(b) approve the variance request with provisions as recommended by the executive committee.

(8) The Executive Director may consider a variance after Governance makes a recommendation and when it reasonably appears that:

(a) the health and safety of the public and the environment will not be endangered by granting of such a variance;

(b) adequate alternative provisions have been made to protect the health and safety of the public and the environment;

(c) the variance will result in protection of the health and safety of the public and the environment consistent with the design, construction, or operational standards and intent of current requirements; and

(d) the variance does not adversely affect statewide regulation.

(9) If the Executive Director approves the variance request:

(a) the Department shall provide the requester and each local health officer having jurisdiction with a variance approval letter signed by the Executive Director that includes a description of any conditions, restrictions, or requirements pertaining to the variance; and

(b) the Executive Director or local health officer shall include the variance as a condition to operate; and

(c) the Department shall conduct a review of the associated rule to determine whether it should be amended to reflect the conditions of the approved variance.

(10) If the Executive Director denies the variance request, the Department shall provide the requester and each local health officer having jurisdiction with a denial letter that includes the reason for the denial.

(11) If the conditions upon which a variance was granted change, the operator who obtained the variance shall notify the Department and:

(a) apply for a new variance; or

(b) discontinue operating under the previously approved variance and come into full compliance with the current requirements of this rule.

R392-304-24. Enforcement and Penalties.

An operator who violates this rule may be subject to criminal and civil penalties as provided in Section 26B-1-224.

KEY: artificial swimming lagoon, pool, swimming, water

Date of Last Change: 2024

Authorizing and Implemented or Interpreted Law: 26B-1-202; 26B-7-402; 26B-1-224

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R590-271	Filing ID: 56282
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Agency Information

1. Department:	Insurance
Agency:	Administration

Room number:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R590-271. Data Reporting for Consumer Quality Comparison

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

This rule is being revised to update references to the UHIN Transparency Administrative Standard and Transparency Denial Standard that are incorporated by reference in this rule, and to update three website addresses.

4. Summary of the new rule or change:

The change updates references to two standards that are incorporated by reference in this rule, and updates three addresses for Department of Insurance (Department) websites.

Fiscal Information

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

A) State budget:

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

B) Local governments:

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

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

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

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

There is no anticipated cost or savings to non-small businesses. The non-small businesses affected by this change are health insurers that are already complying with the changes. This rule codifies updates that are already in use by the industry.

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

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

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

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

Health insurers affected by this change are already complying with the provisions required by the administrative rule.

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

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

Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.

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

Section 31A-2-201	Section 31A-2-216	
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Incorporations by Reference Information**7. Incorporations by Reference:****A) This rule adds, updates, or removes the following title of materials incorporated by references:**

Official Title of Materials Incorporated (from title page)	Transparency Administration Performance Standard
Publisher	Utah Health Information Network
Issue Date	11/11/2023
Issue or Version	2.0

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

Official Title of Materials Incorporated (from title page)	Transparency Denial Standard
Publisher	Utah Health Information Network
Issue Date	11/11/2023
Issue or Version	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.)

A) Comments will be accepted until:	03/04/2024
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9. This rule change MAY become effective on:	03/11/2024
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:	Steve Gooch, Public Information Officer	Date:	01/16/2024
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R590. Insurance, Administration.

R590-271. Data Reporting for Consumer Quality Comparison.

R590-271-1. Authority.

This rule is promulgated by the commissioner pursuant to Sections 31A-2-201 and 31A-2-216.

R590-271-2. Purpose and Scope.

- (1) The purpose of this rule is to:
- (a) define the methodology for determining and comparing insurer transparency information;
 - (b) establish a format for submitting data to the commissioner; and
 - (c) establish the date the data is due.
- (2)(a) This rule applies to an insurer offering a health benefit plan.
- (b) This rule does not apply to an insurer whose health benefit plans cover fewer than 3,000 individual Utah residents in aggregate.

R590-271-3. Definitions.

Terms used in this rule are defined in Section 31A-1-301. Additional terms are defined as follows:

- (1) "Electronic data interchange standard" means the standards developed by the UHIN Standards Committee at the request of the commissioner.
- (2) "HEDIS" means the Healthcare Effectiveness Data and Information Set.
- (3) "SFTP" means the Secure File Transfer Protocol.
- (4) "UHIN" means the Utah Health Information Network.
- (5) "UHIN Standards Committee" means the Standards Committee of the UHIN.

R590-271-4. Reporting Requirements.

- (1)(a) The following electronic data interchange standards adopted by the UHIN Standards Committee are incorporated by reference by the commissioner and are available at <https://insurance.utah.gov>:
- (i) Transparency Administration Performance Standard, v[1-9]2.0; and
 - (ii) Transparency Denial Standard, v[1-9]2.0.
- (b) An insurer shall submit to the commissioner a report on each electronic data interchange standard referenced in Subsection R590-271-4(1)(a).
- (c) Each report shall be submitted using the department's secure file upload site at <https://forms.uid.utah.gov/insurance/fileUploads>.
- (d) Each report shall include data for the previous calendar year, and shall combine both paper and electronic claims.

(e) The submission format, procedures, and guidelines are described in detail in the adopted transparency standards published by UHIN.

(2) An insurer shall comply with the reporting guidelines, procedures, and format of Rule R428-13 and submit HEDIS data for the preceding calendar year to the Utah Department of Health and Human Services Office of Health Care Statistics.

R590-271-5. Public Records.

The data submitted to the commissioner pursuant to this rule are public records as defined in Section 63G-2-103 for use on:

- (1) the department's website, <https://insurance.utah.gov>; and
- (2) the department's transparency website, <https://healthrates.utah.gov>.

R590-271-6. Severability.

If any provision of this rule, Rule R590-271, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: data, data reporting, insurance

Date of Last Change: 2024[February 8, 2023]

Authorizing, and Implemented or Interpreted Law: 31A-2-216

NOTICE OF PROPOSED RULE

TYPE OF FILING: New

Rule or Section Number:	R650-102	Filing ID: 56280
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Agency Information

1. Department:	Natural Resources	
Agency:	Outdoor Recreation	
Room number:	100	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	Phone:	Email:
India Nielsen Barfuss	385-268-2570	indianielsen@utah.gov
JC Bailey	801-538-7361	jcbailey@utah.gov
Shane Stroud	801-538-7227	sstroud@agutah.gov

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

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

R650-102. Adjudicatory Proceedings

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

This new rule sets out the process and procedure for initiating and conducting adjudicatory proceedings before the Division of Outdoor Recreation (Division).

4. Summary of the new rule or change:

This new rule provides the process for initiating adjudicatory proceedings and sets out procedures for conducting adjudicatory proceedings.

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

This proposed rule is not expected to have a fiscal impact on state government revenues or expenditures. This is because this rule pertains only to initiating and conducting adjudicatory proceedings before the Division and does not directly require the commitment or expenditure of revenues.

Accordingly, it is not anticipated that this rule would impact state government revenues, or require state government expenditures, that are not otherwise required by the Utah Administrative Procedures Act.

B) Local governments:

This proposed rule is not expected to have a fiscal impact on local governments' revenues or expenditures. This is because this rule pertains only to initiating and conducting adjudicatory proceedings before the Division and does not directly require the commitment or expenditure of revenues.

Accordingly, is not anticipated that this rule would impact local government revenues, or require local government expenditures, that are not otherwise required by the Utah Administrative Procedures Act.

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

This proposed rule is not expected to have a fiscal impact on small businesses' revenues or expenditures, nor will a service be required of them for the implementation of this rule.

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

This proposed rule is not expected to have a fiscal impact on non-small businesses' revenues or expenditures, nor

will a service be required of them for the implementation of this rule.

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

The proposed rule 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, nor will a service be required of them for the implementation of this rule.

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

There are no compliance costs for affected persons. This is because this rule pertains only to initiating and conducting adjudicatory proceedings before the Division and does not directly require the expenditure of any costs.

To the extent this rule does require the expenditure of costs, it is anticipated such costs would otherwise be required to comply with the Utah Administrative Procedures Act and thus would be imposed by that statute as opposed to this rule.

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

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

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 63G-4-101 et seq.		

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:	03/04/2024

9. This rule change MAY become effective on:	03/11/2024
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, Division Director	Date:	01/02/2024
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R650. Natural Resources, Outdoor Recreation

R650-102. Adjudicatory Proceedings.

R650-102-1. Designation and Procedures.

(1) Pursuant to Section 63G-4-202 the division designates all adjudicatory proceedings before the division as informal.

(2) The division shall conduct an informal adjudicatory proceeding according to the procedures set out in Subsection 63G-4-203(1).

(3) The division shall commence an adjudicatory proceeding as provided by Section 63G-4-201.

(4) A person other than the division shall commence an adjudicatory proceeding by submitting a written request for agency action to the division director in accordance with Subsection 63G-4-201(3).

R650-102-2. Presiding Officer.

(1) The division director shall be the presiding officer for all adjudicative proceedings before the division.

(2) The division director may, at the director's discretion, designate another person to serve as the presiding officer in any adjudicatory proceeding before the division.

R650-102-3. Declaratory Proceedings.

(1) A person may petition the division to issue a declaratory order determining the applicability of a statute, rule, or order within the primary jurisdiction of the division.

(2) A person shall ensure a petition:

(a) is clearly designated as a request for an agency declaratory order;

(b) identifies the statute, rule, or order to be reviewed;

(c) states the factual issue, situation, or circumstance in which applicability is sought;

(d) describes the reason or need for the applicability review, including the specific relationship of the requested declaratory order to the legal rights, interests, and objectives of the petitioner;

(e) includes the petitioner's address and telephone number;

(f) provides the contact information for other persons or parties the petitioner considers will be directly affected by the issuance of a declaratory order; and

(g) is signed by the petitioner or the petitioner's authorized representative.

(3)(a) Upon receipt of a petition, the director or the director's designee shall review the petition to ensure it complies with the requirements of Subsection (2).

(b) If the director or the director's designee determines the petition does not comply with the requirements of Subsection (2), the director or the director's designee shall return the petition to the petitioner.

(c) If the director or the director's designee determines the petition is complete, the director or the director's designee shall review the petition and, within a reasonable amount of time, issue a written order that:

(i) states the applicability or non-applicability of the statute, rule, or order at issue; and

(ii) provides the reason or reasons the statute, rule, or order is applicable or non-applicable.

KEY: administrative procedures, adjudicatory proceedings

Date of Last Change: 2024

Authorizing, and Implemented or Interpreted Law: 63G-4-101 et seq.

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R657-13	Filing ID: 55876
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Agency Information

1. Department:	Natural Resources
Agency:	Wildlife Resources
Room number:	Suite 2110
Building:	Department of Natural Resources

Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146301	
City, state and zip:	Salt Lake City, UT 84114-6301	
Contact persons:		
Name:	Phone:	Email:
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R657-13. Taking Fish and Crayfish
3. Purpose of the new rule or reason for the change:
This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) fishing management program.
4. Summary of the new rule or change:
This rule is being amended to add species to the list of prohibited fish.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This amendment adds protections to fish species from harvest, therefore the DWR has determined that these amendments do not create a cost or savings impact to the state budget or the DWR's budget, since the changes will not increase workload and can be carried out with existing budget.
B) Local governments:
Since this amendment only adds additional fish to the prohibited list, this should have little to no effect on local governments.
This filing does not create any direct cost or savings impact on local governments because they are not directly affected by this rule. Nor are local governments indirectly impacted because this rule does not create a situation requiring services from local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):

This rule does not impose any additional financial requirements on small businesses, nor generate a cost or saving impact to small businesses because this rule does not create a situation requiring services from them.

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

This rule does not impose any additional financial requirements on non-small businesses, nor generate a cost or saving impact to non-small businesses because this rule does not create a situation requiring services from them.

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

This rule does not impose any additional financial requirements on other persons, nor generate a cost or saving impact to other persons because this rule does not create a situation requiring services from them.

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

DWR has determined that this amendment will not create additional costs for those individuals wishing to participate in fishing in Utah because there is no cost associated with adding fish to the prohibited list.

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

Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0

Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 23A-2-305	Section 23A-2-304	Section 23A-1-101

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:	03/04/2024

9. This rule change MAY become effective on:	03/11/2024
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:	Justin Shirley, DWR Director	Date:	01/08/2024
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R657. Natural Resources, Wildlife Resources.

R657-13. Taking Fish and Crayfish.

R657-13-1. Purpose and Authority.

(1) Under authority of Sections 23A-2-305 and 23A-2-304, the Wildlife Board has established this rule for taking fish and crayfish.

(2) Specific dates, areas, methods of take, requirements and other administrative details which may change annually and are pertinent are published in the proclamation of the Wildlife Board for taking fish and crayfish.

R657-13-13. Prohibited Fish.

(1) The following species of fish are classified as prohibited and may not be taken or held in possession:

- [~~_____~~ (a) Alewife (*Alosa pseudoharengus*);
 - ~~_____~~ (b) Asian swamp eel (*Monopterus albus*);
 - ~~_____~~ (c) Bighead carp (*Hypophthalmichthys nobilis*);
 - ~~_____~~ (d) Black carp (*Mylopharyngodon piceus*);
 - ~~_____~~ (e) Bonytail (*Gila elegans*);
 - [~~_____~~ (b) Bluehead sucker (*Catostomus discobolus*);
 - ~~_____~~ (f) Bowfin (*Amia calva*);
 - ~~_____~~ (g) Brook stickleback (*Culaea inconstans*);
 - ~~_____~~ (e)h Colorado pikeminnow (*Ptychocheilus lucius*);
 - [~~_____~~ (d) Flannelmouth sucker (*Catostomus latipinnis*);
 - [~~_____~~ (e) Gizzard shad (*Dorosoma cepedianum*), except at Lake Powell;]
 - [~~_____~~ (f) (i) Eurasian ruffe (*Gymnocephalus cernuus*);
 - ~~_____~~ (j) Flathead catfish (*Pylodictis olivaris*);
 - ~~_____~~ (k) Gar (Family Lepisosteidae);
 - ~~_____~~ (l) Grass carp (*Ctenopharyngodon idella*);
 - ~~_____~~ (g)m Humpback chub (*Gila cypha*);
 - ~~_____~~ (h)-]n Ide (*Leuciscus idus*);
 - ~~_____~~ (o) June sucker (*Chasmistes liorus*);
 - ~~_____~~ (i) Least chub (*Notichthys phlegathontis*);]
 - [~~_____~~ (j)p Piranhas (all species);
 - ~~_____~~ (q) Nile perch (*Lates niloticus*);
 - ~~_____~~ (r) Northern [Leatherside chub (*Lepidomeda eopis*)]snakehead (*Channa argus*);
 - ~~_____~~ (k)s Razorback sucker (*Xyrauchen texanus*);
 - ~~_____~~ (l) Southern Leatherside chub (*Lepidomeda alieiae*);]
 - [~~_____~~ (m)t Red bellied pacu (*Piaractus brachypomus*);
 - ~~_____~~ (u) Red shiner (*Cyprinella lutrensis*);
 - ~~_____~~ (v) Round goby (*Neogobius melanostomus*);
 - ~~_____~~ (w) Rudd (*Scardinius erythrophthalmus*);
 - ~~_____~~ (x) Sand shiner (*Notropis stramineus*);
 - ~~_____~~ (y) Sea lamprey (*Petromyzon marinus*);
 - ~~_____~~ (z) Silver carp (*Hypophthalmichthys molitrix*);
 - ~~_____~~ (aa) South American parasitic catfish (Family Cetopsidae and Family Trichomycteridae);
 - ~~_____~~ (bb) Tiger fish (*Hydrocynus vittatus*);
 - ~~_____~~ (cc) Tench (*Tinca tinca*);
 - ~~_____~~ (dd) Tilapia (Genus *Coelotilapia*, Genus *Coptodon*, Genus *Heterotilapia*, Genus *Oreochromis*, and Genus *Sarotherodon*);
 - ~~_____~~ (ee) Virgin River chub (*Gila seminuda*);
 - ~~_____~~ (n)ff [Virgin spinedace (*Lepidomeda mollispinis*)]Walking catfish (*Clarias batrachus*); and
 - ~~_____~~ (e)gg Woundfin (*Plagopterus argentissimus*).
- (2) Any of these species taken while attempting to take other legal species shall be immediately released.

KEY: fish, fishing, wildlife, wildlife law

Date of Last Change: 2024[November 21, 2023]

Notice of Continuation: August 24, 2022

Authorizing, and Implemented or Interpreted Law: 23A-2-305; 23A-2-304[; 23A-1-101]

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R657-33	Filing ID: 56276
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Agency Information

1. Department:	Natural Resources	
Agency:	Wildlife Resources	
Room number:	Suite 2110	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146301	
City, state and zip:	Salt Lake City, UT 84114-6301	
Contact persons:		
Name:	Phone:	Email:
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R657-33. Taking Bear
3. Purpose of the new rule or reason for the change:
This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) rule regulating the taking of bear in Utah.
4. Summary of the new rule or change:
The proposed amendments to this rule amend the mandatory orientation course to be taken prior to hunting instead of prior to applying for or obtaining the bear permits.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The amendments to Rule R657-33 are administrative in nature and the DWR has determined that these changes can be initiated within the current workload and resources of the DWR, therefore, the DWR believes that these amendments can be enacted without a cost or savings impact to the state budget or the DWR's budget.
B) Local governments:
Since the proposed amendments do not require a service from local governments this filing does not create any direct or indirect cost or savings impact to local governments.

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

The proposed rule amendments will not directly impact small businesses because a service is not required of them.

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

The proposed rule amendments will not directly impact non-small businesses because a service is not required of them.

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

These amendments do not have the potential to create a cost impact to those individuals wishing to participate in the hunting of bear in Utah because the mandatory orientation course has zero cost associated to take it and is available for free on DWR's website.

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

DWR has determined that this amendment will not create additional costs for those participating in the take of bear, because the mandatory orientation course has zero cost associated to take it and is available for free on DWR's website.

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

Regulatory Impact Table

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

Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this fiscal analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 23A-2-304	Section 23A-2-305	

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:	03/04/2024

9. This rule change MAY become effective on:	03/11/2024
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:	Justin Shirley, DWR Director	Date:	01/08/2024
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R657. Natural Resources, Wildlife Resources.

R657-33. Taking Bear.

R657-33-1. Purpose and Authority.

(1) Under authority of Sections 23A-2-304 and 23A-2-305, the Wildlife Board has established this rule for taking and pursuing bear.

(2) Specific dates, areas, number of permits, limits and other administrative details which may change annually are published in the guidebook of the Wildlife Board for taking and pursuing bear.

R657-33-3. Permits for Taking Bear.

(1)(a) To harvest a bear, a person must first obtain a valid limited entry bear permit, a harvest objective bear permit, a spot-and-stalk permit, or a bear control permit for a specified hunt unit as provided in the guidebook of the Wildlife Board for taking bear.

(b) Any person who obtains a limited entry bear permit or a harvest objective bear permit which allows the use of dogs may pursue bear without a pursuit permit while hunting during the season and on the unit for which the take permit is valid, provided the person is the dog handler.

(2)(a) A person may not apply for or obtain more than one bear permit per year, except:

(b) if the person is unsuccessful in the drawing administered by the division under Rule R657-62, the person may purchase a permit available outside of the drawing; and

(c) a person may acquire more than one bear control permit as described in Subsection R657-33-23(4).

(3) Any bear permit purchased after the season opens is not valid until three days after the date of purchase.

(4) Residents and nonresidents may apply for and receive limited entry bear permits, and may purchase harvest objective bear permits and bear pursuit permits.

(5)(a) A person must complete a mandatory orientation course before ~~[applying for or obtaining]~~ hunting in a limited entry, harvest objective season, or pursuing a bear using a bear pursuit permit.

(b) ~~[The]~~ A person must possess a certificate of completion of the mandatory orientation course while hunting or pursuing black bear.

(c) The orientation course is not required to receive a bear control permit under Subsection R657-33-23(4).

(~~[e]~~d) The orientation course shall include training on hunter ethics.

(6) To obtain a limited entry, harvest objective, spot-and-stalk permit, or bear pursuit permit, a person must possess a valid Utah hunting or combination license.

KEY: wildlife, bear, game laws

Date of Last Change: 2024~~[October 1, 2023]~~

Notice of Continuation: October 31, 2022

Authorizing, and Implemented or Interpreted Law: 23A-1-101; 23A-2-304; 23A-2-305

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:	R657-51	Filing ID: 56281
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Agency Information

1. Department:	Natural Resources
Agency:	Wildlife Resources
Room number:	Suite 2110
Building:	Department of Natural Resources
Street address:	1594 W North Temple
City, state and zip:	Salt Lake City, UT 84116

Mailing address: PO Box 146301		
City, state and zip: Salt Lake City, UT 84114-6301		
Contact persons:		
Name:	Phone:	Email:
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R657-51. Poaching-Reported Reward Permits
3. Purpose of the new rule or reason for the change:
This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) commercial harvesting of protected aquatic wildlife management program.
4. Summary of the new rule or change:
<p>This rule is being amended for the following:</p> <p>1) to add allowances for tags to be issued outside the standardized guidance and to protect the identity of reporting parties, when deemed appropriate and necessary;</p> <p>2) to add additional permit options for reporting parties who report multiple poaching reported reward eligible violations in a single year;</p> <p>3) to add the definition of "Immediate Family";</p> <p>4) to add the definition for "Poaching Reported Reward Permit";</p> <p>5) to modify violations that are eligible for Poaching Reported Reward Permits to include the unlawful taking of a trophy animal under Section 23A-5-309; and</p> <p>6) to remove the ability to receive/issue a Poaching Reported Reward Permit for cougar.</p>

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This amendment adds additional flexibility to Law Enforcement Officers when issuing Poaching Reported Reward Permits and can be performed within the normal business operations. Therefore, the DWR has determined that these amendments do not create a cost or savings impact to the state budget or the DWR's budget, since the changes will not increase workload and can be carried out with existing budget.

B) Local governments:

Since this amendment only adds additional flexibility to Law Enforcement Officers when issuing Poaching Reported Reward Permits, this should have little to no effect on local governments.

This filing does not create any direct cost or savings impact to local governments because they are not directly affected by this rule. Nor are local governments indirectly impacted because this rule does not create a situation requiring services from local governments.

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

This rule does not impose any additional financial requirements on small businesses, nor generate a cost or saving impact to small businesses because this rule does not create a situation requiring services from them.

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

This rule does not impose any additional financial requirements on non-small businesses, nor generate a cost or saving impact to non-small businesses because this rule does not create a situation requiring services from them.

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

This rule does not impose any additional financial requirements on other persons, nor generate a cost or saving impact to other persons because this rule does not create a situation requiring services from them.

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

DWR has determined that this amendment will not create additional costs for those individuals who report hunting or fishing violators that would qualify them for a Poaching Reward Permit.

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

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0

Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 23A-2-304	Section 23A-2-305	

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:	03/04/2024
9. This rule change MAY become effective on:	03/11/2024
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:	Justin Shirley, DWR Director	Date:	01/10/2024
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R657. Natural Resources, Wildlife Resources.

R657-51. Poaching-Reported Reward Permits.

R657-51-1. Purpose and Authority.

(1) Under authority of Sections 23A-2-304 and 23A-2-305, the Wildlife Board has established this rule describing procedures the division may use in issuing permits to individuals who report unlawful taking of protected wildlife in Utah.

(2) The division may deviate from this rule when granting a poaching-reported reward permit to protect an individual's identity as requested by the division's Chief of Law Enforcement.

(a) Deviations may include:

(i) authorizing a permit on a near or similar unit;

(ii) authorizing a permit for a different species;

(iii) authorizing a premium limited-entry or once-in-a-lifetime permit if a recipient is eligible for multiple poaching-reported reward permits; or

(iv) authorizing a voucher that may only be redeemed by the recipient's immediate family member.

R657-51-2. Definitions.

(1) Terms used in this rule are defined in Section 23A-1-101 and Rule R657-62.

(2) In addition:

(a) "Immediate Family" means a recipient's spouse, children, sons-in-law, daughters-in-law, father, mother, father-in-law, mother-in-law, brothers, sisters, brothers-in-law, sisters-in-law, stepchildren, and grandchildren.

(b) "Poaching-Reported Reward Permit" means a permit obtained for a specific hunt area published in the hunt tables of the guidebook of the Wildlife Board for taking big game, turkey, or bear as established in Rule R657-51.

(c) "Successful Prosecution" means:

(i) the issuance of a Class B misdemeanor citation for a wildlife violation under [Utah Code] Section 23A-5-311; [—or]

(ii) the filing of criminal charges eligible for a Class A or Class B misdemeanor or any felony under Section 23A-5-311[—]; or

[—(b)—] (iii) the issuance of a citation or filing of criminal charges of a Class B misdemeanor for a violation of Section 23A-5-309 involving a trophy animal.

(d) "Qualifying Individual" means:

(i) an individual who provides accurate and credible information concerning a wildlife violation in Utah;

(ii) the division uses that information in securing a Successful Prosecution; and

(iii) the individual fully cooperates and supports the division throughout the prosecution process.

R657-51-3. General Permit Availability and Eligibility Provisions.

(1)(a) A poaching-reported reward permit may only be issued on a unit having [+0]ten or more public draw permits issued in the upcoming season.

(b) If a poaching-reported reward permit is unavailable on a given unit, an alternative permit may be issued using the process identified in each species-specific section of this rule.

(c) The division may determine that a permit is unavailable on a unit if:

(i) less than ~~[40]~~ten public draw permits will be issued for a given unit in the upcoming season;

(ii) the illegally harvested animal was taken outside of established unit boundaries; or

(iii) issuing a poaching-reported reward permit would exceed 10% of the total number of permits issued on that unit.

(2) A Qualifying Individual remains eligible to receive a poaching-reported reward permit, regardless of any applicable waiting periods they may otherwise be subject to.

(3) A Qualifying Individual receiving a poaching-reported reward permit will not:

(a) forfeit bonus points or preference points accumulated; or

(b) incur a waiting period, except as described in Subsection (4).

(4) A Qualifying Individual receiving a poaching-reported reward permit for a once-in-a-lifetime species is ineligible to apply for or obtain another once-in-a-lifetime permit for the same species and sex through the division's big game drawing.

(5)(a) The division may only issue one poaching-reported reward permit for any one animal illegally taken.

(b) No more than one poaching-reported reward permit may be issued to any one person per Successful Prosecution.

(c) No more than one poaching-reported reward permit per species shall be issued to any one person in any single calendar year.

(d) Nothing in this rule authorizes an individual to use or possess more than one permit for an antlered or horned animal of the same species in a single hunt year.

(e) The Qualifying Individual may choose the weapon type for the permit, so long as a permit for that weapon type is available.

(f) The Qualifying Individual may choose the season for the permit if different seasons are offered, except that multi-season permits may not be issued through the poaching-reported reward permit program.

(6)(a) Poaching-reported reward permits may only be issued to the individual who provides the most pertinent information leading to a Successful Prosecution, unless granted under Subsection R657-51-1(2)(a)(iv).

(b) If information is received from more than one individual, the director of the division shall make a determination based on the facts of the case as to which individual is eligible to receive the permit.

(7) Poaching-reported reward permits are non-transferable, unless granted under Subsection R657-51-1(2)(a)(iv).

(8) Any person who receives a poaching-reported reward permit must possess or obtain a Utah hunting or combination license and otherwise be eligible to hunt the species for which the permit is issued for.

(9) The division may determine whether to offer monetary rewards in lieu of issuing a poaching-reported reward permit for a Qualifying Individual.

(10) If a poaching-reported reward permit is authorized for transfer under Subsection R657-51-1(2)(a)(iv), a person may not purchase, sell, offer, barter, exchange, or trade the voucher.

R657-51-5. [Cougar Poaching-Reported Reward Permits.

~~(1) Limited entry and harvest objective cougar units are eligible for poaching-reported reward permits.~~

~~(2) Only one poaching-reported reward permit may be issued for each limited entry cougar unit per year.~~

~~(3) Poaching-reported reward permits for cougar may be issued on units or hunts.~~

~~(4) Meeting the general permit availability requirements as follows:~~

~~(a) if the animal was illegally taken on a harvest objective unit, a permit may be issued for a limited entry unit closest in proximity to that harvest objective unit;~~

~~(b) if the animal was illegally taken on a limited entry unit, a permit may be issued on the same limited entry unit; or~~

~~(c) if a permit described in Subsections (a) and (b) is unavailable, a permit may be issued on the limited entry unit that is closest in proximity to where the animal was illegally taken.~~

R657-51-6. [Bear Poaching-Reported Reward Permits.

(1) Limited-entry and harvest objective bear units are eligible for poaching-reported reward permits.

(2) Only one poaching-reported reward permit may be issued for each limited-entry bear unit per year.

(3) Poaching-reported reward permits for bear may be issued on units or hunts meeting the general permit availability requirements as follows:

(a) if the animal was illegally taken on a harvest objective unit, a permit may be issued for a limited-entry unit closest in proximity to that harvest objective unit;

(b) if the animal was illegally taken on a limited-entry unit, a permit may be issued on the same limited-entry unit; or

(c) if a permit described in Subsections (a) and (b) is unavailable, a permit may be issued on the limited-entry unit that is closest in proximity to where the animal was illegally taken.

R~~657-51-7~~657-51-6. Turkey Poaching-Reported Reward Permits.

(1) General season and limited-entry turkey units are eligible for poaching-reported reward permits.

(2) Poaching-reported reward permits for turkey may be issued on units or hunts meeting the general permit availability requirements as follows:

(a) a permit may be issued on the same unit as the animal that was illegally taken; or

(b) if a permit described in Subsection (a) is unavailable on that unit, a permit may be issued on a limited-entry or general season unit selected by the division.

KEY: wildlife, game laws, big game seasons

Date of Last Change: 2024[October 2, 2023]

Notice of Continuation: June 15, 2023

Authorizing, and Implemented or Interpreted Law: 23A-2-304; 23A-2-305; 23A-11-201; 23A-11-202

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Rule or Section Number:

R657-62

Filing ID:
56277

Agency Information

1. Department: Natural Resources

Agency: Wildlife Resources

Room number: Suite 2110

Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146301	
City, state and zip:	Salt Lake City, UT 84114-6301	
Contact persons:		
Name:	Phone:	Email:
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R657-62. Drawing Application Procedures
3. Purpose of the new rule or reason for the change:
This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) rule pursuant to application procedures.
4. Summary of the new rule or change:
The proposed amendments to this rule amend the mandatory orientation course to be taken prior to hunting instead of prior to applying for or obtaining the bear permits.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The amendments to Rule R657-62 are administrative in nature, the DWR has determined that these changes can be initiated within the current workload and resources of the DWR, therefore, the DWR believes that these amendments can be enacted without a cost or savings impact to the state budget or the DWR's budget.
B) Local governments:
Since the proposed amendments do not require a service from local governments this filing does not create any direct or indirect cost or savings impact to local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):																																
The proposed rule amendments will not directly impact small businesses because a service is not required of them.																																
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):																																
The proposed rule amendments will not directly impact non-small businesses because a service is not required of them.																																
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):																																
These amendments do not have the potential to create a cost impact too those individuals wishing to participate in the hunting of bear in Utah because the mandatory orientation course has zero cost associated to take it and is available for free on DWR's website.																																
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):																																
DWR has determined that this amendment will not create additional costs for those participating in hunting in Utah, because there are no additional costs associated with this filing.																																
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																																
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Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this fiscal analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 23A-2-304	Section 23A-2-305	

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:	03/04/2024

9. This rule change MAY become effective on:	03/11/2024
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:	Justin Shirley, DWR Director	Date:	01/08/2024
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R657. Natural Resources, Wildlife Resources.
R657-62. Drawing Application Procedures.

R657-62-1. Purpose and Authority.

(1) Under authority of Sections 23A-2-304 and 23A-2-305, the Wildlife Board has established this rule for drawing applications and procedures.

(2) Specific season dates, bag and possession limits, areas open, number of permits and other administrative details that may change annually are published in the respective guidebooks of the Wildlife Board.

R657-62-19. Black Bear.

(1) Permit and Pursuit Applications.

(a) For the purposes of this section, "restricted bear pursuit permit" means a limited entry permit issued in a division drawing that authorizes an individual to pursue bear using trained dogs, consistent with the restrictions found in ~~[Utah Admin. Code] Rule R657-33.~~

(b) A person must possess or obtain a valid hunting or combination license ~~[in order]~~ to apply for or obtain a limited entry bear permit or restricted bear pursuit permit.

(c) A person may not apply for or obtain more than one bear permit and restricted bear pursuit permit distributed pursuant to this rule within the same calendar year.

(d) A person may simultaneously possess both a limited entry bear permit and a restricted pursuit permit.

(e) Limited entry bear permits and restricted pursuit permits are valid only for the hunt unit and for the specified season designated on the permit.

(f)(i) Applicants may select up to three hunt unit choices when applying for limited entry bear or restricted bear pursuit permits. Hunt unit choices must be listed in order of preference.

(ii) Applicants must specify in the application a specific season for their limited entry or restricted bear pursuit permit.

(g) Any person intending to use bait during their bear hunt must obtain a certificate of registration as provided in Sections R657-33-13 and R657-33-14.

(h) Applicants must meet all age requirements, proof of hunter education requirements and youth restrictions as provided in Sections 23A-4-704, 23A-4-708, and 23A-4-1001.

(2) Group applications are not accepted.

(3) Waiting periods.

(a) Any person who obtains a limited entry bear permit through the division drawing, may not apply for a permit thereafter for a period of two years.

(b) Any person who obtains a limited entry restricted bear pursuit permit through the division drawing, may not apply for a permit thereafter for a period of two years.

(c) Waiting periods do not apply to bear wildlife expo permits, as provided in Section R657-55-6.

~~[(4) A person must complete a mandatory orientation course prior to applying for any bear permit offered through a division drawing or obtaining bear permits as described in R657-33-3(5).]~~

KEY: wildlife, permits

Date of Last Change: ~~2024~~**[October 1, 2023]**

Notice of Continuation: April 9, 2019

Authorizing, and Implemented or Interpreted Law: 23A-2-304; 23A-2-305

End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a **PROPOSED RULE** in the *Utah State Bulletin*, it may receive comment that requires the **PROPOSED RULE** to be altered before it goes into effect. A **CHANGE IN PROPOSED RULE** allows an agency to respond to comments it receives.

As with a **PROPOSED RULE**, a **CHANGE IN PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **CHANGE IN PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends March 04, 2024.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (example). Deletions made to the rule appear struck out with brackets surrounding them (~~example~~). A row of dots in the text between paragraphs (.) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Office of Administrative Rules.

From the end of the 30-day waiting period through May 31, 2024, an agency may notify the Office of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses.

CHANGES IN PROPOSED RULES are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

The Changes in Proposed Rules Begin on the Following Page

NOTICE OF CHANGE IN PROPOSED RULE		
Rule or Section Number:	R708-31	Filing ID: 55755
Date of Previous Publication:	10/15/2023	

Agency Information

1. Department:	Public Safety	
Agency:	Driver License	
Room number:	Suite 2600	
Street address:	4315 S 2700 W, 2nd Floor	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 144501	
City, state and zip:	Salt Lake City, UT 84114-4501	
Contact persons:		
Name:	Phone:	Email:
Kim Gibb	801-556-8198	kgibb@utah.gov
Tara Zamora	801-964-4483	tarazamora@utah.gov
Britani Flores	801-884-8313	bflores@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R708-31. Ignition Interlock Systems
3. Reason for this change:
The Driver License Division (Division) has made changes to the proposed rule as a result of several public comments made during the 30-day public comment period.
4. Summary of this change:
This filing adds clarifying language throughout.
In addition, the filing:
1) changes the date of compliance for systems from December 31, 2023, to October 31, 2024;
2) updates recertification time frame from three years to five years;
3) amends the definition section; and

4) removes the requirement for a certification of test results to be signed by corporate officers of the lab and instead can be signed by an employee of the lab.

The filing also removes the requirement for manufacturers to notify the Division of changes to software or firmware. The rule filing allows existing systems installed prior to October 31, 2024, to remain installed until the first monitor appointment that occurs after October 31, 2024, and removes the requirement to provide the serial number of the camera.

(EDITOR'S NOTE: The original proposed repeal and reenact upon which this change in proposed rule (CPR) was based was published in the October 15, 2023, issue of the Utah State Bulletin, on page 167. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed repeal and reenact together to understand all of the changes that will be enforceable should the agency make this rule effective.)

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This rule filing is not expected to have any impact on any state government budget.
These changes are extending the date of compliance for manufacturers to a longer time frame and to recertify less frequently.
These changes also clarify terms used in the previous filing for who signs the certification of the test results and removes the need to notify the Division about software or firmware changes which did not have a fiscal cost or savings associated in the initial filing.
B) Local government:
This rule filing is not expected to have any impact on local governments.
This rule does not regulate local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule filing is not expected to have any impact on small businesses.
This rule does not regulate small businesses.

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

These changes may have a direct inestimable fiscal benefit to eight certified ignition interlock system manufacturers.

The date for compliance has been extended and the extension of the time period to recertify a system has changed from every three years to every five years which would result in a manufacturer going through the certification process less. This means they would not have to pay the certification costs as often.

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

This rule filing is not expected to have any impact on persons other than small businesses, non-small businesses, or state or local government entities.

This rule does not regulate other persons.

F) Compliance costs for affected persons:

There may be some inestimable compliance costs associated with this rule filing. The costs are inestimable because the Division is not able to determine how much it would cost a manufacturer to obtain accreditation for compliance.

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

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

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

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

The Commissioner of the Department of Public Safety, Jess L. Anderson, 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 41-6a-518		
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Incorporations by Reference Information**7. Incorporations by Reference:****A) This rule adds, updates, or removes the following title of materials incorporated by references:**

Official Title of Materials Incorporated (from title page)	Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDS)
Publisher	Office of the Federal Register, National Archives and Records Administration
Issue Date	May 8, 2013
Issue or Version	Volume 78, Number 89

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:	03/04/2024
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9. This rule change MAY become effective on:	03/11/2024
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:	Christopher Caras, Division Director	Date:	01/04/2024
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R708. Public Safety, Driver License.

R708-31. Ignition Interlock Systems.

R708-31-1. Purpose.

The purpose of this rule is to provide standards and requirements for certifying ignition interlock systems and manufacturer performance standards.

R708-31-2. Authority.

This rule is authorized by Section 41-6a-518.

R708-31-3. Definitions.

(1) Terms used in this rule are defined in Sections 41-6a-518, 53-3-102, ~~and~~ 53-3-1002 and R708-48-3.

(2) In addition:

(a) "calibration" means the process of testing and verification of system function, and adjusting an ignition interlock system by using a dry gas standard to ensure the accuracy of the breath test result;

(b) "camera" means a feature of the system that captures a digital image of the individual submitting to the breath test;

(c) "captured data" means data or images downloaded or sent from a system;

(d) "circumvention" means bypassing the correct operation of the system to allow starting or operating the vehicle without a passing breath test;

(e) "department" means the Department of Public Safety;

(f) "division" means the Driver License Division;

(g) "handset" means the component ~~on~~ of the system that ~~contains the fuel cell for the response after gathering the initial breath data~~ receives the breath sample;

~~(h) "install" means any service provided by an ignition interlock installer including the installation or removal of an ignition interlock system and the performance of any type of maintenance or service on an ignition interlock system;~~

(h) "independent lab" means a testing laboratory not affiliated with a manufacturer and is accredited to the ISO-17025 Laboratory Standards;

(i) "ISO-17025 Laboratory Management Standard" means an international operating standard for which labs must hold accreditation to be considered technically competent;

(j) "ISO-9001 Quality Management Standard" means an international operating standard for which an organization may hold certification to show they have met the criteria for quality management principles;

(k) "manufacturer" means an entity responsible for the design, development, production, and repair of a system;

(l) "manufacturer representative" means an individual designated by the manufacturer as the contact for the division;

(m) "monitoring" means the calibration and maintenance of the system to ensure proper function and use, and the downloading of any captured data from the system;

(n) "NHTSA" means the National Highway Traffic Safety Administration;

(o) "relay" means a control box or communication device of the system that logs events ~~and~~ sends data, and allows or prevents the vehicle from starting or operating;

(p) "retest" means an additional required breath test;

(q) "system" means an ignition interlock system; and

(r) "tampering" means to physically disable, disconnect, adjust, or otherwise alter the proper operation of a system, and does not include the removal of a system by an ignition interlock installer licensed by the division if the removal is reported to the division as required.

R708-31-4. Standards for Certification.

(1) An applicant shall complete an application packet for certification of a system in writing and mail it to the division at Box 144501, Salt Lake City, Utah 84114.

(2) The application packet under Subsection (1) shall include:

(a) an application provided by the division;

(b) a certification ~~report~~ for each system from an independent lab accredited to the ISO-17025 Laboratory Management Standard that includes:

(i) a description of the tests run on each system;

(ii) test results dated after May 8, 2014;

(iii) a signature of ~~the corporate officers of~~ an employee authorized by the lab that certifies the accuracy of the reported results; and

(iv) verification the test results show the system meets or exceeds the standards in:

(A) the NHTSA model specifications for breath alcohol ignition interlock devices (BAIID), 78 FR 26849-26867, May 8, 2013, which are incorporated by reference;

(B) this rule; and

(C) Section 41-6a-518;

(c) a certification the systems are manufactured in a facility that is accredited to the ISO 9001 Quality Management System; and

(d) the operator's manual, users guide, and maintenance manual for each certified system.

(3) The division shall reject any incomplete application packet.

(4) The manufacturer of a system shall bear any costs of that system's certification.

R708-31-5. Minimum System Requirements.

(1) For each system submitted for certification the manufacturer shall include:

(a) a system that will record at a minimum:

(i) each start attempt and outcome including override if applicable;

(ii) a description and results of calibration checks;

(iii) any attempts at circumvention;

(iv) any attempts at tampering;

(v) the breath alcohol content for each start attempt;

- (vi) the date and time of each attempt; and
- (vii) chronological order of each entry; and
- (b) a camera as outlined in Section R708-31-8.
- (2) The manufacturer shall ensure:
 - (a) ~~captured data [contained in a system's memory shall be downloaded during any system monitoring or service and] is reported~~ to the division in a manner described by the division;
 - (b) login credentials to access system data are provided to the division upon request and at no cost;
 - (c) captured is retained for four years from the date the system is removed from any vehicle; and
 - (d) additional reports requested by the division ~~[and]~~ are provided in a format acceptable to and at no cost to the division.
- (3) The division may:
 - (a) conduct testing on any systems submitted for certification. The manufacturer or provider shall provide at no cost at least one fully functional sample of each system upon request of the division; and
 - (b) in its discretion, retain systems provided regardless of whether the system is no longer the current version or model of that system.
- (4) The division may also select any system in Utah to conduct testing according to -Section R708-31-4.
- (5) The division may require recertification of an existing certified system that has been modified.
- (6)(a) The manufacturer shall notify the division not less than 30 days before implementation of any modification, upgrade, or alteration to any hardware~~[software, or firmware]~~ of a system certified for use in this state.
- (b) The notification shall include the following:
 - (i) a description and explanation of the modification, upgrade, or alteration and proof satisfactory to the division that these modifications, upgrades, or alterations do not adversely affect the ability of the system to satisfy the requirements of this rule and Section 41-6a-518; and
 - (ii) a comprehensive plan of action for the phasing out of the use of the current system.~~[This plan of action shall be approved by the division before the implementation of the plan of action.]~~
- (10) Each existing certified manufacturer shall obtain accreditation of the ISO 9001 Quality Management System no later than ~~[December 31, 2023]~~October 31, 2024.
- (11)(a) Systems not meeting certification standards contained in this rule may not be used or installed in Utah after ~~[December 31, 2023]~~October 31, 2024.
- (b) Systems in use before October 31, 2024 may remain in use until the next monitoring appointment that occurs after October 31, 2024.

R708-31-6. List of Certified Systems.

- (1) The division shall maintain and post a list of certified systems on the division website.
- (2) To be included on the approved list of certified systems under Subsection (1), each manufacturer shall:
 - (a) have a system that meets the certification standards in Section R708-31-4;
 - (b) provide the division with a representative photograph of each certified system;
 - (c) submit and comply with a quality assurance plan that includes procedures for:
 - (i) checking the calibration;
 - (ii) downloading the data;
 - (iii) maintenance;
 - (iv) checking for tampering; and
 - (v) any other information regarding quality assurance unique to the system;

- (d) submit a detailed description of the system including:
 - (i) a signed test certificate with complete test results as identified in Section R708-31-4;
 - (ii) system serial numbers from the:
 - (A) relay; and
 - (B) handset; ~~[and~~
 - ~~(C) camera; and~~
 - ~~(iii) software versions of systems tested;]~~
- (e)(i) provide a certificate of insurance, issued by an insurance company authorized to transact business in Utah;
- (ii) provide an adequate product liability policy with a current effective date;
- (iii) specify the name and model number of the systems covered by the policy;
- (iv) maintain policy coverage of at least \$1,000,000 per occurrence and 3,000,000 in whole;
- (v) list the manufacturer as the insured and the Department of Public Safety, Driver License Division as an additional insured;
- (vi) cover product liability coverage for defects in manufacture, materials, design, calibration, installation, and operation of the system; and
- (vii) ensure the insurance company will notify the division immediately upon cancellation and at least 30 days before terminating product liability policy; and
- (f) pay any applicable fees.
- (3) Certification listed under this section shall expire:
 - (a) ~~[three]~~five years after the date of issuance; or
 - (b) upon changes or updates to the system including any ~~[software,]~~ hardware, or standards listed in Section R708-31-4.
- (4) A manufacturer requesting a recertification or a renewal of a certification of a system shall submit:
 - (a) a new application and fee; and
 - (b) certification for each system showing compliance with the standards referenced in Section R708-31-4.
- (5) The division may deny an application to renew a system certification or cancel an existing certification if there is pending action against the manufacturer, manufacturer representative, or provider for any violation of this rule, Rule R708-48, or Sections 53-3-1001 through 53-3-1008.
- (6) A manufacturer who fails to maintain the standards in this rule will result in loss of certification of their system and removal from the approved list of certified systems.
- (7) The division will approve or deny the certification and notify the applicant within 30 days of the determination.

R708-31-7. Manufacturer Performance Standards.

- A -manufacturer shall:
 - (1) designate a manufacturer representative as a contact person for the division;
 - (2) notify the division in writing of:
 - (a) a change in manufacturer representative within seven days of the change;

~~[(b)]~~ system software changes and effects before the changes are made;

~~[(e)]~~ any recalls, defects, or system issues that would result in the system no longer meeting the standards in Section R708-31-4;

~~[(d)]~~ any system or model presenting a public safety risk, or five or more failures of an installed system in any 12 month period; and

~~[(e)]~~ a certification, ~~[or]~~ license, or authorization to manufacture ignition interlock devices that has been denied, canceled, suspended, revoked or any similar action in any jurisdiction outside of Utah within 30 days of receiving the notice of the action;

(3) not allow programming or modification of system features to be made by installers;

(4) make any data captured through the system or camera readily available to the division;

(5) agree to ensure proper record keeping in a format approved by the division;

(6) provide testimony, at no cost to, and on behalf of the state or a political subdivision of the state relating to;

(a) any aspect of the installation, ~~[service]~~ monitoring, repair, use, or removal, of a system;

(b) interpretation of any report or information recorded in the data storage system of a system; and

(c) the performance of any other duties required;

(7) upon the request of the division, for each model approved by the division, provide a total of not less than 10 hours of training to division employees at no cost to this state that shall:

(a) be held at times and locations within the state designated by the division;

(b) familiarize division employees with the installation, operation, ~~[service]~~ monitoring, repair, and removal of the system; and

(c) include the training and instructions that an installer will give to customers.

R708-31-8. Camera Requirements.

(1) A manufacturer submitting a system for certification shall ensure cameras installed on a system shall:

(a) not impede the field of vision for the safe and legal operation of the vehicle;

(b) not pose a threat to the driver or passengers of the vehicle in the event of dislodgement;

(c) take an image of the individual with sufficient clarity to allow identification;

(d) capture images of the individual conducting the breath alcohol test for the following:

(i) successful completion of the initial breath test sample;

(ii) successful completion of any retest breath test sample;

(iii) unsuccessful delivery of the initial breath test sample;

(iv) unsuccessful delivery of any retest breath test sample;

and

(v) high breath alcohol test results;

and

(e) capture identifiable images in any lighting condition;

(f) incorporate tamper detection features that include:

(i) covering, blocking, or coating of the lens to distort the image;

(ii) repositioning of the field of view so that it no longer is aimed at the driver; and

(iii) disconnection from communication or power from the system.

(2) Images taken by the camera shall be stored by the manufacturer with the:

(a) date and time of the image capture;

(b) results of each breath test; and

(c) corresponding system serial number of the:

(i) relay; and

(ii) handset; ~~and~~

~~_____ (iii) camera.]~~

(3) A manufacturer shall have data readily available to the division upon request.

(4) ~~[A system not equipped with a camera by December 31, 2023, will be decertified by the division.] A system shall be decertified by the division if the system is not equipped with a camera by October 31, 2024.~~

R708-31-9. Grounds for Refusal to Certify or Revocation of Certification.

(1) The division may refuse to certify or may revoke an existing certification for any of the following reasons:

(a) failure to comply with:

(i) Title 53, Chapter 3, Part 10, Ignition Interlock System Program Act;

(ii) Section 41-6a-518;

(iii) Title 13, Commerce and Trade; or

(iv) this rule or any other rule of the Department of Public Safety;

(b) any omission, false statement, or any falsification, with or without intent or knowledge of:

(i) an application; or

(ii) any records or other required information relating to Title 53, Chapter 3, Part 10, Ignition Interlock System Program Act;

(c) interference or failure to permit the division or its representatives to inspect records or any data collected from the camera or system;

(d) a defect in the design, materials, or workmanship causing the system to fail to function as intended;

(e) notification of the denial, cancellation, or revocation of certification from another state;

(f) false, incomplete, or inaccurate information provided by the manufacturer, manufacturer representative, or independent laboratory;

(g) modification of the components or design of the system or modification that causes the system to no longer satisfy the standards in Section R708-31-4;

(h) the system fails the compliance testing conducted by the division;

(i) the system fails to meet the requirements for certification or is no longer in compliance with the requirements in this rule;

(j) a manufacturer's liability insurance coverage is terminated, canceled, or expired;

(k) the manufacturer, manufacturer representative, provider, or installer fails to submit any reports in accordance with any reporting requirement; or

(1) false or inaccurate information provided by the manufacturer, manufacturer representative, or independent laboratory relating to the performance, reliability, function, or capabilities of the system.

(2) The division shall forward the notice and order of revocation of the certification of a system to the manufacturer representative and ensure the notice and order of revocation specifies the basis for the revocation.

(3) A manufacturer of a previously decertified system may apply to have the system certified in accordance with this rule if changes to equipment, procedures, or practice correcting the violation are submitted in writing to the division.

(4) The division will not consider certification of a system from a manufacturer that fails to comply with this subsection.

R708-31-10. Procedures Governing Informal Adjudicative Proceedings.

(1) The division shall notify a manufacturer representative in writing of the decision to refuse to certify a system.

(2) The division shall begin an action to revoke the certification of a system by the issuance of a notice of agency action and ensure the notice of agency action complies with Section 63G-4-201.

(3) The manufacturer does not need to respond to the notice of agency action.

(4) The manufacturer may send a written request for a hearing within ten days of the letter refusing to certify a system, or to revoke a system certification to the division, in accordance with Subsection 63G-4-201(3).

(5) The division shall grant a hearing when the division receives a request, in writing, within ten calendar days from the date the notice of failure to certify or notice of agency action is issued.

(6) The division shall send written notice of a hearing at least 14 calendar days before the date of the hearing.

(7) The division may not allow discovery, either compulsory or voluntary, before the hearing except that each party shall have access to information in the division's files to the extent permitted by law, and to investigative information and materials not restricted by law.

(8) A hearing officer shall hold a hearing within 30 calendar days from the day that the division receives the written request for hearing, unless agreed to by the parties;

(9) The division shall issue a written decision that shall constitute final agency action within 20 days after the date of the close of the hearing, or after the failure of a party to appear for the hearing.

(10) The division shall ensure the written decision states the reason for the decision, notice of right to request reconsideration under Section 63G-4-302, notice of right of judicial review under Section 63G-4-402, and the time limits for filing an appeal to the appropriate district court.

KEY: ignition interlock systems

Date of Last Change: 2024~~2023~~

Notice of Continuation: March 15, 2019

Authorizing, and Implemented or Interpreted Law: 41-6a-518; 53-3-1001

NOTICE OF CHANGE IN PROPOSED RULE		
Rule or Section Number:	R708-48	Filing ID: 55756
Date of Previous Publication:	10/15/2023	

Agency Information

1. Department:	Public Safety	
Agency:	Driver License	
Room number:	Suite 2600	
Street address:	4315 S 2700 W, 2nd Floor	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 144501	
City, state and zip:	Salt Lake City, UT 81114-4501	
Contact persons:		
Name:	Phone:	Email:
Kim Gibb	801-556-8198	kgibb@utah.gov
Tara Zamora	801-964-4483	tarazamora@utah.gov
Britani Flores	801-884-8313	bflores@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R708-48. Ignition Interlock System Program
3. Reason for this change:
The Driver License Division (Division) has made changes to the proposed rule as a result of several public comments made during the 30-day public comment period.
4. Summary of this change:
This filing adds clarifying language throughout.
In addition, the filing removes the requirement for providers and installers to have a designated waiting area and a visual barrier to be present for ignition interlock activities that are done outside of a garage and instead adds that ignition interlock activities shall not be in view of the public.

This rule filing updates the definition section, adds clarification that inspections and records are specific to the ignition interlock business, and that any ignition interlock system activity report will be given to the client only upon request.

This filing removes the requirement to always have a licensed installer on the premises during business hours and removes the requirement to list the serial number of the cameras.

(EDITOR'S NOTE: The original proposed repeal and reenact upon which this change in proposed rule (CPR) was based was published in the October 15, 2023, issue of the Utah State Bulletin, on page 183. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed repeal and reenact together to understand all of the changes that will be enforceable should the agency make this rule effective.)

Fiscal Information

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

A) State budget:

This rule filing is not expected to have any impact on any state government budget.

These changes remove requirements regarding designated waiting areas and visual barriers and add specification to the business records mentioned in this rule.

These changes also remove the requirement to have a licensed installer on the premises during business hours.

B) Local government:

This rule filing is not expected to have any impact on local governments.

This rule does not regulate local governments.

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

This rule filing may have a direct inestimable fiscal benefit to 40 small businesses registered with the Division as certified ignition interlock system providers.

The requirement to have designated waiting areas and visual barriers for ignition interlock system activities done outside of a garage has been removed. This would mean providers will not have to alter their existing locations or processes.

In addition, the changes specify the records referred to in this rule are that of the providers ignition interlock business only and remove the requirement to have the location staffed by a licensed installer during business hours.

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

This rule filing may have a direct inestimable fiscal benefit to one non-small business registered with the Division as a certified ignition interlock system provider.

The requirement to have designated waiting areas and visual barriers for ignition interlock system activities done outside of a garage has been removed. This would mean providers will not have to alter their existing locations or processes.

In addition, the changes specify the records referred to in this rule are that of the providers ignition interlock business only and remove the requirement to have the location staffed by a licensed installer during business hours.

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

This rule filing is not expected to have any impact on any persons other than small businesses, non-small businesses, or state or local government budgets.

This rule does not regulate any other persons.

F) Compliance costs for affected persons:

Compliance with this rule is not expected to have a cost to affected persons.

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

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0

Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Commissioner of the Department of Public Safety, Jess L. Anderson, 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 53-3-1004	Section 53-3-1007	

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:	03/04/2024

9. This rule change MAY become effective on:	03/11/2024
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:	Christopher Caras, Division Director	Date:	01/04/2024
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R708. Public Safety, Driver License.

R708-48. Ignition Interlock System Program.

R708-48-1. Purpose.

This rule governs the licensing and regulation of the Ignition Interlock System Program.

R708-48-2. Authority.

This rule is authorized by Sections 53-3-1004 and 53-3-1007.

R708-48-3. Definitions.

(1) Terms used in this rule are defined in Sections 41-6a-518, 53-3-102, ~~and 53-3-1002,~~ and R708-31-3.

(2) In addition:

(a) "act of moral turpitude" means conduct which:

(i) is done knowingly contrary to justice, honesty, or good morals;

(ii) has an element of falsification, fraud, or deception; or

(iii) contains an element of harm or injury directed to another person or another's property;

(b) "business" means a service center;

~~["certificate of calibration" means a document prepared by the technician showing the details and results of the calibration process;~~

~~["captured data" means data or images downloaded or sent from a system;]~~

~~["client" means the named person on the ignition interlock system contract;~~

~~["d"] "ignition interlock system activities" means installation, inspection, monitoring, service, and removal of the system, but does not include internal system repair;~~

~~["f"] "install" means any service provided by an ignition interlock installer including the installation or removal of an ignition interlock system and the performance of any type of maintenance or service on an ignition interlock system;~~

~~["g"] "monitoring" means the calibration and maintenance of the system to ensure proper function and use, and the downloading of any captured data from the system;]~~

~~["h"]~~^(e) "removal" means the removal of a system;

~~["i"]~~^(f) "service center" means a physical location designated by the manufacturer, and approved by the division, where systems are installed, inspected, monitored, calibrated, maintained, and removed; ~~and~~

~~["j"]~~^(g) "service interval" means the time between system monitoring ~~["and~~

~~["k"] "system" means an ignition interlock system].~~

R708-48-4. Requirements for Providers.

A -provider shall:

(1) be responsible for the oversight of the ignition interlock system activities that are performed at the service center, and each installer employed by the business;

(2) maintain any records including:

(a) client records;

(b) contracts;

(c) personnel files including division issued installer licenses for each installer; and

(d) any documentation concerning an ignition interlock business transaction;

(3) ensure the security of any client records and personal data on any forms, receipts, or contracts;

(4) program the systems to have a service interval of 60 days, unless a shorter interval is ordered as a term of probation by the court;

(5) perform ~~[service within]~~ monitoring no later than three business days ~~[of]~~ after the 60 day service interval;

(6) restart the service interval on the date of ~~[service]~~ monitoring if the system malfunctions and requires ~~[service]~~ monitoring before the expiration of the 60 day service interval;

(7) allow the division to conduct scheduled and unscheduled inspections and audits;

(8) grant access to their ignition interlock business databases to the division;

(9) furnish any records of the business to the division upon request;

(10) provide the client with a complete report of any ignition interlock system activity upon request;

~~[(10)]~~ (11) provide in-person training on system activities to each installer including annual re-training;

~~[(14)]~~ (12) maintain training files for each installer including dates of completion;

~~[(12)]~~ (13) finish any training administered or required by the division;

~~[(13)]~~ (14) require each installer to finish any training administered or required by the division;

~~[(14)]~~ (15) not be convicted of or have been found by the division, or any entity of the state, to have engaged in conduct that constitutes a felony, crime, or act of moral turpitude;

~~[(15)]~~ (16) not knowingly employ an installer who has been convicted of, or who has been found by the division to have engaged in, conduct that constitutes a felony, crime, or act of moral turpitude;

~~[(16)]~~ (17) post signs to identify the business by the name listed on the provider's license application;

~~[(17)]~~ (18) conspicuously display a copy of the provider's license issued by the division, and business license issued by the city or municipality;

~~[(18)]~~ (19) ensure the service center does not operate from the same facility or location as another service center;

~~[(19)]~~ (20) surrender the provider's license to the division within five days if:

(a) the provider listed on the license is no longer working at the business; or

(b) the provider license is denied, canceled, or revoked;

~~[(20)]~~ (21) provide and maintain a \$50,000 surety bond that is:

(a) continuous in form and run concurrently with the license period;

(b) protects against liability to third persons; and

(c) requires that the insurer provide notice to the division within five days if the surety bond is canceled;

~~[(24)]~~ (22) notify the division in writing:

(a) within five business days of any changes to the residential or mailing address of any ~~[employee]~~ installer licensed by the division;

(b) within five business days if any ~~[one]~~ installer licensed by the division is no longer employed by the business;

(c) within 30 days of receiving notice of any license relating to systems that have been denied, canceled, or revoked in another state or jurisdiction;

(d) within five days in the event the provider learns of any litigation in which it is a party defendant; and

(e) within five days after being served a summons, complaint, or other pleadings in a case that involves services provided, and which has been filed in any federal or state court or administrative agency and shall deliver copies of these documents to the division.

R708-48-5. Procedure to Apply for and Renew a Provider License.

(1) An applicant shall complete an application for a new or renewal of a provider license and mail it to the division at Box 144501 Salt Lake City, Utah 84114.

(2) The application packet under Subsection (1) shall include:

(a) a provider application form provided by the division, which has been signed by the applicant and any other required parties;

(b) an application or renewal fee, which shall be made payable to the department;

(c) a copy of any business license for each service center issued by the municipality or county where the service center is located, or a statement that a business license is not required in that location;

(d) samples of any forms, receipts, and contracts used in the course of operation of the business;

(e) a schedule of fees to be charged by the business for each service performed by the business;

(f) a description of how the business shall be operated, which shall include:

(i) a description of how the provider will meet the requirements of Title 53, Chapter 3, Part 10, Ignition Interlock System Program Act, and Rule R708-48;

(ii) a detailed installer training plan;

(iii) a detailed client training plan on how to use and maintain the system; and

(iv) copies of any training materials that will be used;

(g) evidence of a \$50,000 surety bond for the business that shall:

(i) be continuous in form and run concurrently with the license period;

(ii) protect against liability to third persons; and

(iii) require the insurer to provide notice to the division if the surety bond is canceled; and

(h) evidence of two years of experience in operating a business.

(3) If the division determines the provider has submitted a complete application, a division representative shall conduct a service center site inspection.

(4) An applicant submitting an application for an initial or new provider license shall submit each of the items listed in Subsections R708-48-5(2)(a) through (h) in addition to:

(a) one FBI applicant fingerprint card with the applicant's legible fingerprints; and

(b) a check or money order made payable to the Utah Bureau of Criminal Identification to cover the cost of a background check.

(5) An applicant submitting an application under this rule shall provide original documents, ~~[photocopies of documents may not be submitted] unless the division requests photocopies.~~

(6) A provider may not transfer their license.

(7) A provider may obtain a duplicate provider license by submitting a written request and a duplicate license fee to the division.

(8) The division may not process an application if any requirement is not met.

(9) A provider shall submit a new application in the event of a change in ownership.

R708-48-6. Requirements of a Service Center Location.

(1) A provider shall ensure a service center location:

(a) is not located within 1500 feet of a facility in which vehicle registrations or driver licenses are issued to the public unless the location was established before the establishment of the facility in which vehicle registrations or driver licenses are issued to the public;

(b) does not solicit business directly or indirectly or display or distribute any advertising material within 1500 feet of a:

(i) building in which vehicle registrations or driver licenses are issued to the public; or

(ii) a court building;

(c) is compliant with federal, state, and local building, fire, safety, and health codes;

(d) does not display any logos, driver license, or vehicle license plate recreations of the department, the division, the Utah State Tax Commission, or Division of Motor Vehicles, in their advertising; and

(e) does not use any letterhead, advertising, or other printed matter in any manner representing that the provider or service center is recommended, endorsed by, or is an instrumentality of the federal government, a state, or any political subdivision of a state.

(2) The division shall approve any changes in location of the service center in writing before moving.

(3) A licensed installer shall be ~~[on the premises during]~~ available for all scheduled appointments or provide written notification to the client for any appointments that must be canceled or rescheduled [advertised or posted business hours].

(4) A provider shall ~~[designate a waiting area that]~~ ensure any ignition interlock system activities are completed outside the [is not in] view of [the installation area for individuals who are not licensed installers] the client.

(5) Providers shall take adequate security measures to ensure that individuals not licensed under this rule cannot gain access to proprietary materials or client files.

~~[(6) An installer completing an installation or removal of a system outside of a garage or building shall complete the installation or removal behind a visual barrier that is sufficient to shield the process from anyone not licensed under this rule.]~~

R708-48-7. Procedure to Apply for or Renew a Service Center License.

(1) An applicant shall complete an application for a service center license and mail it to the division at Box 144501 Salt Lake City, Utah 84114.

(2) The packet under Subsection (1) shall include:

(a) an application form provided by the division, which has been signed by the applicant and any other required parties;

(b) an application or renewal fee, which shall be made payable to the department; and

(c) a copy of the license to operate in the city or municipality where the service center is located, or a statement that a license is not required in that location.

(3) A division representative:

(a) shall inspect the location before approval of the license; and

(b) may make any recommendations for changes to become fully compliant for licensure.

(4) A provider may not transfer a service center license.

(5) A provider may obtain a duplicate service center license by submitting a written request and a duplicate license fee to the division.

(6) The division may not process an application if any requirement is not met.

R708-48-8. Inspection and Audit Procedures.

(1) The division shall conduct inspections and audits to verify compliance with Title 53, Chapter 3, Part 10, Ignition Interlock System Program Act, and this rule.

(2) The provider shall make the premises and records of the service center available to the division immediately upon request during normal business hours for an inspection or audit.

(3) The division shall provide a receipt to the business if it becomes necessary to remove records from the service center for audit purposes, which will include:

(a) the name and location of the provider;

(b) the location of the business;

(c) the date that records were removed;

(d) a description of records removed;

(e) the signature of an authorized representative of the business; and

(f) the signature of a division representative.

(4) The division may not issue a receipt for photocopies of documents.

(5) The division shall update the receipt under Subsection (3) upon return of the records, with:

(a) the date the records were returned;

(b) the signature of an authorized representative of the business who is receiving the records; and

(c) the signature of the division representative returning the records.

(6) The division shall hold the records no longer than necessary to finish an audit, inspection, or investigation.

(7) The division may not return photocopies of records.

(8) A division representative shall prepare a written report of each inspection and audit.

(9) The division shall maintain a copy of the written report for ten years.

(10) The division shall notify the business of the division's findings following a business inspection or audit, by sending:

(a) a letter to the business indicating any:

(i) problems;

(ii) concerns; or

(iii) violations found during the inspection or audit;

(b) an action plan detailing expectations regarding the correction of the items identified; or

(c) a notice of agency action.

(11) The division shall audit records of client complaints including:

(a) complaints against a provider, installer, or service center;

(b) the complaint resolution process; and

(c) complaints received by the provider, installer, and the division.

(12) The division may make recommendations based on:

(a) the findings of the complaint resolution process;

(b) the number of complaints received; and

(c) the severity and type of complaints.

(13) The division may conduct announced and unannounced audits of ~~[service]~~ monitoring appointments or ignition interlock system activities.

R708-48-9. Requirements for an Installer.

(1) A licensed installer shall:

(a) only be allowed to be employed or contracted by and do work for one provider at a time;

(b) finish in-person training for systems offered by the provider of the business for which they will be employed;

(c) finish any training administered or required by the division;

(d) provide a live demonstration and a written or electronic user guide to clients on the operation and functioning of the system before leaving the installation site;

(e) not be convicted of, or have been found by any entity of the state to have engaged in conduct which constitutes a felony, or crime or act of moral turpitude;

(f) perform monitoring on each system every 60 days or more frequently as required by the court or division, to:

(i) identify the system's proper use and accuracy; and

(ii) download captured data from the system;

(g) require the client to bring the vehicle with the system installed to the service center for monitoring; and

(h) not allow the ~~[customer]~~ client or any other person except a division employee, another installer or trainee, or provider to observe the installation ~~[by using a separate area or visual barrier approved by the division].~~

(2) An installer shall provide the client with a written report of:

~~(a)] service performed during an installation, removal, or [service] monitoring, and send a copy of the information [sent] to the division as required in Section R708-48-13[; and~~

~~(b) a complete report of any ignition interlock system activity, upon request].~~

(3) An installer shall surrender their license to the division within five days:

(a) if the installer is no longer employed at the provider; or

(b) the division has denied, canceled, or revoked the license.

(4) An installer shall notify the division in writing if they have had an installer license denied, canceled, or revoked in another state or jurisdiction within 30 days of receiving notice of the action.

R708-48-10. Procedure to Apply for and Renew an Installer License.

(1) An applicant for a new or renewal of an existing installer license, shall mail a complete installer application packet to the division at Box 144501 Salt Lake City, Utah 84114.

(2) The packet under Subsection (1) shall include:

(a) an installer application form provided by the division, which has been signed by the applicant and any other required parties;

(b) an application fee or renewal fee, which shall be made payable to the department;

(c) a signed agreement verifying that the applicant has read and understands each of the laws and rules that are applicable to Title 53, Chapter 3, Part 10, Ignition Interlock System Program Act;

(d) one FBI applicant fingerprint card with the applicant's legible fingerprints with initial application and upon renewal; and

(e) a check or money order made payable to the Utah Bureau of Criminal Identification to cover the cost of a background check.

(3) The applicant shall include original documents in the packet unless the division requests photocopies. ~~[The division may not accept photocopies of documents.]~~

(4) An installer may not transfer their license.

(5) The installer may apply for a duplicate installer license by submitting a written request and a duplicate license fee to the division.

(6) The division may not process an application if any requirement is not met.

R708-48-11. Contracts and Documentation.

(1) A provider shall have a written contract approved by the division signed by both the client and an authorized representative of the provider before providing any services to a client.

(2) A client under 18 years of age shall also have the contract signed by a parent or legal guardian before any service is provided.

(3) A provider shall give a physical copy of the full contract signed by the representative, including the legible written name of the representative who signed, and keep the original contract.

(4) The provider shall ensure the contract contains:

(a) the client's:

(i) full legal name;

(ii) date of birth;

(iii) driver's license number;

(iv) license plate number;

(v) full legal name of the registered owner of the vehicle if different than the client;

(vi) full residential address; and

(vii) full mailing address;

(b) a description of the services to be provided by the business;

(c) a complete list of any fees and their frequency during the contract;

(d) clear language that sets forth the costs of early termination of the contract;

(e) language voiding the contract if the provider's license is denied, canceled, or revoked by the division; ~~and~~

(f) clearly identifies the total cost of the contract, including any expected servicing and removal costs during the contract, and early termination fees[;]

~~(g) clearly identifies all recurring monthly fees in the fees section; and~~

~~(h) system serial numbers from the:~~

~~(i) relay;~~

~~(ii) handset; and~~

~~(iii) camera].~~

(5) The provider shall allow the client to cancel the contract at any time, and shall clearly identify the total amount due upon cancellation including service charges, cancellation fees, and removal costs;

(6) The provider ~~[shall]~~may not automatically extend~~[ed]~~ the contract due to a violation.

(7) The provider may not make the length of the contract ~~[be]~~contingent upon the length of the ignition interlock restriction on an individual's driving privilege, or any extension of the restriction.

(8) The provider or a representative of the provider shall give the client a receipt upon payment of any fees.

(9) The installer shall provide clients with a physical copy of the installation report immediately upon installation.

(10) Clients are required to sign a Client Responsibility Form provided by the division which shall include:

(a) the client's:

(i) full legal name;

(ii) date of birth; and

(iii) driver's license number and state of issuance;

(b) the vehicle's:

(i) license plate number and state of issuance;

(ii) make and model; and

(iii) Vehicle Identification Number;

(c) name of the system manufacturer;

(d) installer signature;

(e) name of the service center;

(f) date of installation; and

(g) acknowledgment of training provided by the installer

to the client on the following topics:

(i) device use and function;

(ii) distracted driving while using a system;

(iii) early removal of a system;

(iv) tampering;

(v) camera technology; and

(vi) fees associated with the lease of a system.

R708-48-12. Records.

(1) The provider shall maintain the following client records:

(a) documentation of each ignition interlock system activity provided to a client which include:

(i) the client's:

(A) full legal name;

(B) date of birth;

(C) driver license number and state of issuance; and

(D) license plate number and state of issuance;

(ii) the type of service provided;

(iii) the exact date the service was performed;

(iv) the name~~[and installer ID number]~~ of the installer who performed each service; and

(v) the name of the manufacturer and system serial number for the:

(A) relay; ~~and~~

(B) handset; ~~[and~~

~~(C) camera;]~~

(b) original copies of client contracts;

(c) client responsibility forms;

(d) original copies of receipts and invoices;

(e) installation reports; and

(f) certificates of calibration with serial numbers of the:

(i) relay; ~~and~~

(ii) handset; ~~[and~~

~~(iii) camera].~~

(2) The provider shall:

(a) store any client records in a location accessible to the division during normal business hours; and

(b) store active client records- in a single location in the service center.

(3) The provider may store inactive client records in a single offsite storage location after one year has elapsed since the system was removed.

(4) The provider shall maintain client records for a period of four years after the contractual obligation with the client has concluded.

(5) Each provider shall review the records of the business every six months for completeness and accuracy.

(6) The provider shall immediately file an affidavit with the division if any records the business is required to maintain are lost or destroyed which states:

(a) the date the record was lost or destroyed;

(b) the circumstances surrounding the loss or destruction;

(c) the effect the loss may have on ~~[customers]~~clients or the business's ability to fulfill requirements under this rule; and

(d) a description of the contents of the records lost or destroyed.

(7) In the event of a breach of data security, the provider shall:

(a) notify the division immediately after becoming aware of a breach of data security;

(b) cooperate with the state regarding recovery of data, remediation; and involvement of law enforcement;

(c) bear the cost of notifying everyone whose personal information may have been compromised;

(d) notify those individuals whose personal information may have been compromised in accordance with Title 13, Chapter 44, Protection of Personal Information Act;

(e) perform an analysis to determine the cause of the breach;

(f) produce a remediation plan to reduce the risk of incurring a similar type of breach in the future; and

(g) present the analysis and remediation plan to the division within ten days of notifying the division of the breach of data security.

(8)(a) The division has the right to adjust the plan under Subsection (6)(f), at its sole discretion.

(b) If the provider cannot produce the required analysis and plan under Subsection (6)(f) within the allotted time, the state, in its sole discretion, may perform an analysis and produce a remediation plan that the provider shall comply with, at the provider's sole cost.

(9) The provider shall:

(a) ensure any ~~[customer]~~client records, state records, and information remain confidential at all times; and

(b) comply with state and federal laws, rules, and regulations concerning the confidentiality of information.

R708-48-13. Reporting.

(1) Installers shall report to the division each time an individual has installed or removed a system from their vehicle.

(2) Providers shall report each time an individual has:

(a) attempted to start the vehicle with a measurable breath alcohol concentration greater than .020; or

(b) failed to report to the provider every 60 days, or more frequently if ordered by the court or division, for monitoring.

(3) A provider shall ensure each report submitted includes:

(a) the client's:

(i) full legal name;

(ii) date of birth;

(iii) driver's license number and state of issuance;

(iv) license plate number and state of issuance; and

(v) make, model, and Vehicle Identification Number of the vehicle the system is installed in;

(b) the name of the manufacturer and serial numbers for the:

(i) relay; and

(ii) handset; ~~and~~

~~(iii) camera;~~

(c) the date and time of the installation, removal, and monitoring of a system;

(d) the date and time of attempts to start the vehicle with a measurable breath alcohol concentration that was prevented by the system; and

(e) the name of the person performing the installation, removal, or monitoring of a system.

(4) The provider shall submit each report to the division either through the portal or in a manner defined by the division within 24 hours or the next business day.

R708-48-14. Access to the Utah State Portal.

(1) The division may grant access to the Utah State Portal to an installer to report ignition interlock system activities.

(2) The provider is responsible for:

(a) training each licensed installer on use of the portal; and

(b) ensuring that only a licensed and trained installer has access to the login credentials.

(3) An installer who does not log into the portal at least once every 45 days will have their Utah State Portal access suspended by the division.

(4) The division shall cancel access to the portal if:

(a) a provider or installer license expires or has been denied, canceled, or revoked;

(b) a provider or installer is no longer employed by the service center;

(c) the login information has been shared or used by a person other than the installer; or

(d) a provider or installer fails to report any installation or removal.

R708-48-15. Grounds for the Denial, Cancellation, or Revocation of a Provider, Service Center, or Installer License.

(1) The division may deny, suspend, or revoke a provider, service center, or installer license for any of the following reasons:

(a) failure to comply with:

(i) Title 53, Chapter 3, Part 10, Ignition Interlock System Program Act;

(ii) Section 41-6a-518;

(iii) Title 13, Commerce and Trade; or

(iv) any part of this rule or Rule R708-31;

(b) intentional or unintentional omission or false statement, or any falsification of:

(i) applications; or

(ii) any records or other required information relating to Title 53, Chapter 3, Part 10, Ignition Interlock System Program Act;

(c) denial, cancellation, or revocation of their license in another state or jurisdiction;

(d) having been convicted of or having been found by any state entity to have engaged in, conduct that constitutes a felony, or any crime or act of moral turpitude; or

(e) refusing or failing to respond to a subpoena issued by the division.

(2)(a) The division shall consider the provider's or installer's earlier violations, complaints, and the quantity of the violations, when deciding whether denial, cancellation, or revocation is appropriate.

(b) In lieu of canceling or revoking a license, the division may elect to place the provider or installer on formal probation.

(4) The division shall ensure a probation document outlines the:

(a) violations;

(b) duration of probation;

(c) requirements of the licensee during the probation period; and

(d) requirements to end probation.

(5) If the division has denied, canceled, or revoked a provider license under this section, the clients of that provider may go to another provider.

R708-48-16. Procedures Governing Informal Adjudicative Proceedings.

(1) The division shall notify a provider or installer in writing of the decision to deny, cancel, or revoke a provider or installer license.

(2) The division shall begin an action to deny, cancel, or revoke a provider or installer license by the issuance of a notice of agency action and ensure the notice of agency action complies with Section 63G-4-201.

(3) The provider or installer is not required to respond to the notice of agency action.

(4) The division shall grant an opportunity for a hearing when the division receives a request in writing within ~~[+0]~~ten calendar days from the date the notice of agency action is issued.

(5) The division shall send written notice of a hearing at least 14 days before the date of the hearing.

(6) The division may not allow discovery, either compulsory or voluntary, before the hearing except that:

(a) each party shall have access to information relevant to the action in the division's files; and

(b) each party shall have access to any investigative information and materials permitted by law.

(7) A hearing officer shall hold a hearing within 30 calendar days from the day that the division receives the written request for hearing unless agreed to by the parties.

(8)(a) The division shall issue a written decision that shall constitute final agency action within 20 days after the date of the close of the hearing, or after the failure of a party to appear for the hearing.

(b) The division shall ensure the written decision states, the reason for the decision, notice of right to request reconsideration under Section 63G-4-302, notice of right of judicial review under Section 63G-4-402, and the time limits for filing an appeal to the appropriate district court.

R708-48-17. Interlock Restriction Extensions.

(1) The division may not extend an individual's ignition interlock restriction more than one 60 day extension for violations in a given 60 day reporting period regardless of the frequency of the electronic notifications received by the division under Subsection 53-3-1007(2).

(2) The provider submitting electronic notifications to the division under Subsection 53-3-1007(2) shall submit no more than one every 30 days and no less than one every 60 days except upon removal of an ignition interlock ~~[device]~~system.

(3) The individual may request a hearing before the division within ten days of the notice of extension regarding the extension to challenge the report.

(4) The division shall conduct the hearing in accordance with Rule R708-35. The burden of proof is on the individual to show they did not violate Subsection 53-3-1007(2)(b) or Subsection 53-3-1007(2)(c).

(5) The division may reference previous violations during a hearing under this section.

KEY: Ignition Interlock System Program

Date of Last Change: ~~2024~~2023

Notice of Continuation: June 7, 2022

Authorizing, and Implemented or Interpreted Law: Title 53, Chapter 3, Part 10

End of the Notices of Changes in Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at adminrules.utah.gov. 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: **R657-67** Filing ID: **55737**

Effective Date: **01/08/2024**

Agency Information

1. Department:	Natural Resources	
Agency:	Wildlife Resources	
Room number:	Suite 2110	
Building:	DNR Complex	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146301	
City, state and zip:	Salt Lake City, UT 84114-6301	
Contact persons:		
Name:	Phone:	Email:
Staci Coons	801-450-3093	stacicoons@utah.gov

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

General Information

2. Rule catchline:
R657-67. Utah Hunter Mentoring Program
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Under the authority of Sections 23A-2-201, 23A-2-102, 23A-2-305, 23A-2-304, 23A-4-201, and 23A-4-710, this rule creates a Hunting Mentor program that will increase hunting opportunities for Utah families and provides the procedures under which a minor child may share the permit of another to take protected wildlife.

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 Division of Wildlife Resources (Division) has not received any written comments regarding this rule.

Any comments received in opposition to this rule are resolved using existing policies and procedures or the issue is placed on the Regional Advisory Council's and Wildlife Board's agenda for review and discussion during the process for taking public input.

The public is welcome to view the Regional Advisory Council minutes, Wildlife Board minutes, and the administrative record for this rule at the Division.

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 creates a hunting mentor program that will increase hunting opportunities for Utah families and provides the procedures under which a minor child may share the permit of another to take protected wildlife, including all big game general season permits, big game limited entry permits, once-in-a-lifetime permits, all antlerless big game permits, bear, and cougar. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Justin Shirley, Division Director	Date:	01/08/2024
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R807-1	Filing ID:	52009
Effective Date:	01/11/2024		

Agency Information

1. Department:	Higher Education (Utah Board of)		
Agency:	University of Utah, Museum of Natural History (Utah)		
Building:	Natural History Museum of Utah		
Street address:	301 Wakara Way		
City, state and zip:	Salt Lake City, UT 84108		
Contact persons:			
Name:	Phone:	Email:	
Janaki Krishna	801-585-7484	jkrishna@nhmu.utah.edu	

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

General Information

2. Rule catchline:
R807-1. Curation of Collections from State Lands

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsections 53B-17-603(2) and (4)(b) require the Utah Museum of Natural History to make rules to ensure the adequate curation of archeological and paleontological collections collected from state lands, including the selection of appropriate curation facilities/repositories.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments have been received during the specified time period.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Rule R807-1 is necessary to the Utah Museum of Natural History and as part of the statewide process for protecting archaeological and paleontological resources recovered from state lands. Among other things, Rule R807-1 establishes standards for curation and the obligations of repositories and curation facilities. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jason Cryan, Executive Director	Date:	01/11/2024
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End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF FIVE-YEAR EXPIRATIONS

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). The Office of Administrative Rules (Office) is required to notify agencies of rules due for review at least 180 days prior to the anniversary date. 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 EXTENSION (EXTENSION)** with the Office. However, if the agency fails to file either the **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION** or the **EXTENSION** by the date provide by the Office, the rule expires.

Upon expiration of the rule, the Office files a **NOTICE OF FIVE-YEAR EXPIRATION (EXPIRATION)** to document the action. The Office is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule and it must follow regular rulemaking procedures to replace the rule if it is still needed.

The Office has filed **EXPIRATIONS** for each of the rules listed below which were not reviewed in accordance with Section 63G-3-305. These rules have expired and have been removed from the *Utah Administrative Code*.

The expiration of administrative rules for failure to comply with the five-year review requirement is governed by Subsection 63G-3-305(8).

NOTICE OF EXPIRED RULE

Utah Admin. Code Ref (R no.):	R362-5	ID No. 50870
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Agency Information

1. Department:	Governor	
Agency:	Office of Energy Development	
Street address:	288 N 1460 W, Ste 400	
City, state, and zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:
Nancy L. Lancaster	801-957-7102	rulesonline@utah.gov

General Information

2. Title of rule (catchline):

R362-5. Commercial Property Assessed Clean Energy (C-PACE), Administrative Rules

3. Effective Date:	01/24/2024
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4. Summary:

The five-year review and notice of continuation was not filed for this rule by the deadline. This rule has expired and will be removed from the Utah Administrative Code.

End of the Notices of Notices of Five-Year Expirations Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Agriculture and Food

Plant Industry

No. 55857 (New Rule) R68-40: Medical Cannabis

Pharmacy

Published: 11/15/2023

Effective: 01/02/2024

No. 55858 (New Rule) R68-41: Home Delivery and Courier

Published: 11/01/2023

Effective: 01/02/2024

Commerce

Administration

No. 56172 (Amendment) R151-4: Department of

Commerce Administrative Procedures Act Rule

Published: 12/01/2023

Effective: 01/10/2024

Professional Licensing

No. 56209 (Repeal) R156-60: Mental Health Professional Practice Act Rule

Published: 12/15/2023

Effective: 01/25/2024

No. 56210 (Amendment) R156-60a: Social Worker Licensing Act Rule

Published: 12/15/2023

Effective: 01/25/2024

No. 56211 (Amendment) R156-60b: Marriage and Family Therapist Licensing Act Rule

Published: 12/15/2023

Effective: 01/25/2024

No. 56216 (Amendment) R156-60c: Clinical Mental Health Counselor Licensing Act Rule

Published: 12/15/2023

Effective: 01/25/2024

No. 56217 (Amendment) R156-60d: Substance Use Disorder Counselor Act Rule

Published: 12/15/2023

Effective: 01/25/2024

Cultural and Community Engagement

Arts and Museums, Museum Services

No. 56237 (Repeal) R452-100: Certified Local Museum Designation

Published: 12/15/2023

Effective: 01/24/2024

Education

Administration

No. 56191 (Amendment) R277-210: Utah Professional

Practices Advisory Commission (UPPAC), Definitions

Published: 12/01/2023

Effective: 01/10/2024

No. 56192 (Amendment) R277-211: Utah Professional Practices Advisory Commission (UPPAC) Rules of Procedure: Notification to Educators, Complaints and Final Disciplinary Actions

Published: 12/01/2023

Effective: 01/10/2024

No. 56193 (Amendment) R277-217: Educator Standards and LEA Reporting

Published: 12/01/2023

Effective: 01/10/2024

No. 56194 (Amendment) R277-477: Distributions of Funds from the Trust Distribution Account and Administration of the School LAND Trust Program

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No. 56195 (Amendment) R277-554: State Charter School Board Grants and Mentoring Program
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No. 56196 (Amendment) R277-625: Mental Health Screeners
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No. 56197 (Amendment) R277-700: The Elementary and Secondary School General Core
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No. 56198 (Amendment) R277-704: Financial and Economic Literacy: Integration into Core Curriculum
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No. 56199 (Amendment) R277-752: Special Education Intensive Services Fund
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Environmental Quality

Waste Management and Radiation Control, Radiation
No. 56174 (Amendment) R313-19-13: Exemptions
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No. 56175 (Amendment) R313-21-21: General Licenses-- Source Material
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No. 56176 (Amendment) R313-22-55: Conditions of Specific Licenses to Initially Transfer Source Material for Use Under Section R313-21-21
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Waste Management and Radiation Control, Waste Management
No. 56178 (Amendment) R315-124: Procedures for Decisionmaking
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No. 56180 (Amendment) R315-301: Solid Waste Authority, Definitions, and General Requirements
Published: 12/01/2023
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No. 56181 (Amendment) R315-302: Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements
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No. 56182 (Amendment) R315-304: Industrial Solid Waste Landfill Requirements
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No. 56183 (Amendment) R315-306: Incinerator Standards
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No. 56179 (Amendment) R315-311: Permit Approval For Solid Waste Disposal, Waste Tire Storage, Energy Recovery, And Incinerator Facilities
Published: 12/01/2023
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No. 56186 (Amendment) R315-314: Facility Standards for Piles Used for Storage and Treatment
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Government Operations

Records Committee

No. 55850 (Amendment) R35-1: State Records Committee Appeal Hearing Procedures
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No. 55851 (Amendment) R35-2: Scheduling and Declining Hearings
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Effective: 01/29/2024

Governor

Criminal and Juvenile Justice (State Commission on)
No. 56220 (Amendment) R356-6: Electronic Meetings
Published: 12/15/2023
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Economic Opportunity

No. 56228 (Amendment) R357-3: Economic Development Tax Increment Financing Rule
Published: 12/15/2023
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No. 56205 (Amendment) R357-13: Procedures for the Administration of the Hotel Impact Mitigation Fund
Published: 12/01/2023
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Health and Human Services

Administration

No. 55994 (New Rule) R380-67: Code Blue Alert Protocols
Published: 12/01/2023
Effective: 01/22/2024

No. 56011 (New Rule) R380-80: Provider Code of Conduct and Client Rights
Published: 11/15/2023
Effective: 01/22/2024

Population Health, Environmental Health
No. 55954 (Amendment) R392-702: Cosmetology Facility Sanitation
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Effective: 01/11/2024

Integrated Healthcare
No. 55906 (Amendment) R414-22: Administrative Sanction Procedures and Regulations
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No. 55964 (Amendment) R414-71: Early and Periodic Screening, Diagnostic and Treatment Program
Published: 11/15/2023
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No. 55966 (Amendment) R414-302: Eligibility Requirements
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No. 55969 (Amendment) R414-307: Eligibility for Home and Community-Based Services Waivers
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Health Care Facility Licensing
No. 55959 (Amendment) R432-107: Specialty Hospital - Cancer Treatment
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No. 56018 (Amendment) R432-200: Small Health Care Facility - Four to Sixteen Beds
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Clinical Services, Primary Care and Rural Health
No. 55910 (Amendment) R434-40: Utah Health Care Workforce Financial Assistance Program
Published: 11/15/2023
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Disease Control and Prevention, Medical Examiner
No. 56052 (Amendment) R448-20: Access to Medical Examiner Reports
Published: 11/15/2023
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Administration (Human Services)
No. 56010 (Repeal) R495-876: Provider Code of Conduct
Published: 11/15/2023
Effective: 01/22/2024

No. 56009 (Repeal) R495-879: Parental Support for Children in Care
Published: 11/15/2023
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No. 55908 (Repeal) R495-880: Adoption Assistance
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Human Services Program Licensing
No. 56048 (Amendment) R501-14: Human Service Program Background Screening
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No. 56053 (Amendment) R501-19: Residential Treatment Programs
Published: 11/15/2023
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No. 55926 (Amendment) R501-21: Outpatient Treatment Programs
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No. 55927 (Amendment) R501-22: Residential Support Programs
Published: 11/15/2023
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Child and Family Services
No. 55905 (Amendment) R512-43: Adoption Assistance
Published: 11/15/2023
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Recovery Services
No. 56187 (New Rule) R527-220: Parental Support for Children in Care
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Effective: 01/22/2024

Insurance
Administration
No. 56200 (Amendment) R590-164: Electronic Data Interchange Transactions
Published: 12/01/2023
Effective: 01/10/2024

No. 56218 (Amendment) R590-171: Surplus Lines Procedures Rule
Published: 12/15/2023
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No. 55510 (Repeal and Reenact) R590-190: Unfair Property, Liability and Title Claims Settlement Practices Rule
Published: 7/15/2023
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No. 55510 (First Change in Proposed Rule) R590-190: Unfair Property, Liability and Title Claims Settlement Practices Rule
Published: 10/15/2023
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No. 55510 (Second Change in Proposed Rule) R590-190: Unfair Property, Liability and Title Claims Settlement Practices Rule
Published: 12/15/2023
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No. 56219 (Amendment) R590-281: License Applications Submitted by Individuals Who Have a Criminal Conviction
Published: 12/15/2023
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Natural Resources

Outdoor Recreation

No. 56079 (New Rule) R650-201: Definitions
Published: 12/01/2023
Effective: 01/09/2024

No. 56080 (New Rule) R650-202: Boating Advisory Council
Published: 12/01/2023
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No. 56081 (New Rule) R650-203: Waterway Marking System
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No. 56082 (New Rule) R650-204: Regulating Waterway Markers
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No. 56083 (New Rule) R650-205: Zoned Waters
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No. 56084 (New Rule) R650-206: Carrying Passengers for Hire
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No. 56085 (New Rule) R650-208: Backing Plates
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No. 56086 (New Rule) R650-209: Anchored and Beached Vessels
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No. 56087 (New Rule) R650-210: Change of Address
Published: 12/01/2023
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No. 56088 (New Rule) R650-211: Assigned Numbers
Published: 12/01/2023
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No. 56089 (New Rule) R650-212: Display of Yearly Registration Decals and Month of Expiration Decals
Published: 12/01/2023
Effective: 01/09/2024

No. 56090 (New Rule) R650-213: Dealer Numbers and Registrations
Published: 12/01/2023
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No. 56091 (New Rule) R650-214: Temporary Registration
Published: 12/01/2023
Effective: 01/09/2024

No. 56092 (New Rule) R650-215: Personal Flotation Devices
Published: 12/01/2023
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No. 56093 (New Rule) R650-216: Navigation Lights
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No. 56094 (New Rule) R650-217: Fire Extinguishers
Published: 12/01/2023
Effective: 01/09/2024

No. 56095 (New Rule) R650-218: Carburetor Backfire Flame Control
Published: 12/01/2023
Effective: 01/09/2024

No. 56126 (New Rule) R650-219: Additional Safety Equipment
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Effective: 01/09/2024

No. 56096 (New Rule) R650-220: Racing Vessel Exemptions
Published: 12/01/2023
Effective: 01/09/2024

No. 56097 (New Rule) R650-221: Boat Liveries and Boat Rental Companies
Published: 12/01/2023
Effective: 01/09/2024

No. 56098 (New Rule) R650-222: Muffling Requirements
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Effective: 01/09/2024

No. 56104 (New Rule) R650-223: Vessel Accident Reporting
Published: 12/01/2023
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No. 56100 (New Rule) R650-224: Towed Devices
Published: 12/01/2023
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No. 56101 (New Rule) R650-226: Regattas and Races
Published: 12/01/2023
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No. 56102 (New Rule) R650-227: Swimming
Published: 12/01/2023
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No. 56103 (New Rule) R650-228: Scuba Diving
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Effective: 01/09/2024

No. 56108 (New Rule) R650-401: Off-Highway Vehicle and
Registration Stickers
Published: 12/01/2023
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No. 56109 (New Rule) R650-405: Off-Highway Implement
of Husbandry Sticker Fee
Published: 12/01/2023
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No. 56110 (New Rule) R650-410: Off-Highway Vehicle
Safety Equipment
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No. 56112 (New Rule) R650-412: Curriculum Standards for
OHV Education Programs Offered by Non-Division Entities
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No. 55864 (New Rule) R650-413: Display of OHV License
Plate and Registration Decal
Published: 101/15/2023
Effective: 01/08/2024

State Parks

No. 56132 (Repeal) R651-201: Definitions
Published: 12/01/2023
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No. 56133 (Repeal) R651-202: Boating Advisory Council
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No. 56134 (Repeal) R651-203: Waterway Marking System
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No. 56135 (Repeal) R651-204: Regulating Waterway
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No. 56136 (Repeal) R651-205: Zoned Waters
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No. 56137 (Repeal) R651-206: Carrying Passengers for
Hire
Published: 12/01/2023
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No. 56138 (Repeal) R651-207: Registration Fee
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No. 56139 (Repeal) R651-208: Backing Plates
Published: 12/01/2023
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No. 56140 (Repeal) R651-209: Anchored and Beached
Vessels
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No. 56141 (Repeal) R651-210: Change of Address
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No. 56142 (Repeal) R651-211: Assigned Numbers
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No. 56143 (Repeal) R651-212: Display of Yearly
Registration Decals and Month of Expiration Decals
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No. 56144 (Repeal) R651-213: Dealer Numbers and
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No. 56145 (Repeal) R651-214: Temporary Registration
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No. 56146 (Repeal) R651-215: Personal Flotation Devices
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No. 56147 (Repeal) R651-216: Navigation Lights - Note:
Figures 1 through 7 mentioned below are on file with the Utah
Division of Parks and Recreation
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No. 56163 (Repeal) R651-217: Fire Extinguishers
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No. 56148 (Repeal) R651-218: Carburetor Backfire Flame
Control
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No. 56149 (Repeal) R651-219: Additional Safety
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No. 56150 (Repeal) R651-220: Registration and
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No. 56151 (Repeal) R651-221: Boat Liveries - Boat Rental Companies
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No. 56152 (Repeal) R651-222: Muffling Requirements
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No. 56153 (Repeal) R651-223: Vessel Accident Reporting
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No. 56154 (Repeal) R651-224: Towed Devices
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No. 56155 (Repeal) R651-226: Regattas and Races
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No. 56157 (Repeal) R651-401: Off-Highway Vehicle and Registration Stickers
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No. 56158 (Repeal) R651-405: Off-Highway Implement of Husbandry Sticker Fee
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No. 56159 (Repeal) R651-406: Off-Highway Vehicle Registration Fees
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No. 56160 (Repeal) R651-409: Minimum Amounts of Liability Insurance Coverage for an Organized Practice or Sanctioned Race
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No. 56161 (Repeal) R651-410: Off-Highway Vehicle Safety Equipment
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No. 56162 (Repeal) R651-412: Curriculum Standards for OHV Education Programs Offered by Non-Division Entities
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No. 56189 (Repeal) R651-801: Swimming Prohibited
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No. 56190 (Repeal) R651-802: Scuba Diving
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Water Resources

No. 55842 (New Rule) R653-12: 2023 Grant Money for Wasatch Front Aqueduct Resilience Projects
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Public Service Commission

Administration

No. 55757 (Amendment) R746-8-301: Calculation and Application of UUSF Surcharge
Published: 10/15/2023
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School and Institutional Trust Lands

Administration

No. 56114 (Repeal and Reenact) R850-70: Sales of Forest Products From Trust Lands Administration Lands
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No. 56115 (New Rule) R850-75: Sale of Plants and Wildland Seed
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Transportation

Administration

No. 56202 (Amendment) R907-80: Sale or Exchange Involving a Large Public Transit District
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Motor Carrier

No. 56224 (Amendment) R909-19: Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation, and Certification
Published: 12/15/2023
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Operations, Maintenance

No. 56225 (Repeal and Reenact) R918-4: Using Volunteer Groups and Third-Party Contractors for the Adopt-a-Highway and Sponsor-a-Highway Litter Pickup Programs
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Transportation Commission

Administration

No. 56222 (Amendment) R940-6: Prioritization of New Transportation Capacity Projects
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Workforce Services

Administration

No. 56034 (New Rule) R982-111: Adoption Tax Credit

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No. 56033 (New Rule) R982-302: Intergenerational

Poverty Solution, Education Saving Incentive Program

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Homeless Services

No. 56031 (Amendment) R988-400: Homeless Shelter

Cities Mitigation Restricted Account

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No. 56032 (Amendment) R988-500: Overflow Plan

Requirements

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End of the Notices of Rule Effective Dates Section

