UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed March 02, 2024, 12:00 a.m. through March 15, 2024, 11:59 p.m.

Number 2024-07
April 01, 2024

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

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

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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 March 02, 2024, 12:00 a.m., and March 15, 2024, 11:59 p.m. are included in this, the April 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 May 01, 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 July 30, 2024, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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

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

The Proposed Rules Begin on the Following Page

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	**R66-1**	**Filing ID: 56340**

Agency Information

1. Department:	Agriculture and Food
Agency:	Medical Cannabis and Industrial Hemp
Building:	TSOB South Bldg, Floor 2
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO Box 146500
City, state and zip:	Salt Lake City, UT 84114-6500

Contact persons:

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Amber Brown	385-245-5222	ambermbrown@utah.gov
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Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R66-1. Cannabis Cultivation

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

This rule originally existed as Rule R68-27.

However, a repeal has been filed on Rule R68-27 so it can be reenacted under a new title specific to medical cannabis and industrial hemp, Title R66.

4. Summary of the new rule or change:

This new rule is substantively the same as Rule R68-27, which is being repealed and simultaneously reenacted as Rule R66-1 under the new Title R66.

(EDITOR'S NOTE: The proposed repeal of Rule R68-27 is under ID No. 56339 in this issue, April 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 proposed new rule does not have a fiscal impact to the state because the rule text is not changing between the repeal and the new rule.

It is just being repealed to be reenacted under new Rule R66-1.

B) Local governments:

Local governments will not be impacted because they do not participate in the medical cannabis program.

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

This proposed new rule does not have a fiscal impact to small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed new rule does not have a fiscal impact to non-small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed new rule does not have a fiscal impact to other persons because the rule text is not changing between the repeal and the new rule.

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

Compliance costs are not impacted because the substance of the rule is not changing 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

Fiscal Cost	FY2024	FY2025	FY2026
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0

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

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

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

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024

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 W. Buttars, Commissioner	**Date:**	03/07/2024

R66. Agriculture and Food, Medical Cannabis and Industrial Hemp.

R66-1. Cannabis Cultivation.

R66-1-1. Authority and Purpose.

Pursuant to Subsections 4-41a-103(5), 4-41a-204(2)(e), 4-41a-302(3)(b)(ii), 4-41a-404(3), 4-41a-405(2)(b)(iv), 4-41a-701(3), 4-41a-801(1), and 4-2-103(1)(i), this rule establishes the application process, qualifications, and requirements to obtain and maintain a cannabis cultivation facility license.

R66-1-2. Definitions.

As used in this rule:

(1) "Applicant" means any person or business entity who applies for a cannabis cultivation facility license.

(2)(a) "Cannabis" means any part of a marijuana plant.

(b) "Cannabis" does not mean, for purposes of this rule, industrial hemp.

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

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

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

(4) "Cannabis cultivation facility agent registration card" means a registration card that the department issues that:

(a) authorizes an individual to act as a cannabis production establishment agent; and

(b) designates the type of cannabis production establishment for which an individual may act as an agent.

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

(6) "Indoor cannabis cultivation" means cultivation of cannabis within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors.

(7) "Lot" means the quantity of:

(a) flower produced on a particular date and time, following clean up until the next clean up during which the same materials are used; or

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

(8) "Outdoor cannabis cultivation" means an open or cleared ground fully enclosed at the perimeter by a securable, sight obscure wall or fence at least eight feet high.

R66-1-3. Cannabis Cultivation Facility License.

(1) A cannabis cultivation facility license allows the licensee to propagate, cultivate, harvest, trim, dry, cure, and package cannabis into lots for sale or transfer to a cannabis production facility.

(2) A cannabis cultivation facility may produce and sell cannabis plants, seed, and plant tissue culture to other licensed cannabis cultivation facilities.

(3) A complete application shall include the required fee, statements, forms, diagrams, operation plans, and other applicable documents required in the application packet to be accepted and processed by the department.

(4) Before approving an application, the department may contact any applicant and request additional supporting documentation or information.

(5) Before issuing a cannabis cultivation facility license, the department shall inspect the proposed premises to determine if the applicant complies with state laws and rules.

(6) The department may conduct face-to-face interviews with an applicant if needed to determine the best qualified applicant for the number of cannabis cultivation facility licenses that will be issued.

(7) The cannabis cultivation facility license shall expire on December 31st.

(8) A cannabis production establishment license is not transferable or assignable. If the ownership of a cannabis production establishment changes by 50% or more, the requirements of Subsection 4-41a-201(15) shall be followed.

R66-1-4. Cannabis Cultivation Facility Requirements.

(1) A cannabis cultivation facility operating plan shall contain a blueprint or diagram of the facility containing the following information:

(a) for indoor cannabis cultivation, the square footage of the area where cannabis is to be propagated;

(b) for indoor cannabis cultivation, the square footage of the area where cannabis is to be grown;

(c) the square footage of the area where cannabis is to be harvested;

(d) the area where cannabis is to be dried, trimmed, and cured;

(e) the square footage of the area where cannabis is to be packaged for wholesale;

(f) the total square footage of the cultivation facility;

(g) the square footage and location of areas to be used as a storeroom;

(h) the location of the toilet facilities and hand washing facilities;

(i) the location of a break room and location of personal belonging lockers; and

(j) the location of the area to be used for loading and unloading of cannabis product for transportation.

(2) For outdoor cannabis cultivation, the operating plan shall contain a detailed aerial photograph of the area on which the following information is shown:

(a) the area where cannabis to be propagated; and

(b) the area where cannabis is to be grown.

(3) A cannabis cultivation facility operating plan shall detail the drying and curing methods to be used by the cannabis cultivation facility.

(4) An outdoor cannabis cultivation facility shall outline the measures to be taken to ensure that product is kept from deterioration and contamination.

(5) A cannabis cultivation facility shall have written emergency procedures to be followed if:

(a) fire;

(b) chemical spill; or

(c) another emergency at the facility.

(6) A cannabis cultivation facility operating plan shall include:

(a) a pest management plan;

(b) a description of when and how fertilizers are to be applied during the production process;

(c) procedures for water usage and waste water disposal; and

(d) a waste disposal plan.

(7) A cannabis cultivation facility shall have a written plan to handle potential recall and destruction of cannabis because of contamination.

(8) A cannabis cultivation facility shall use a standardized scale that is registered with the department when cannabis is:

(a) packaged for sale by weight;

(b) bought and sold by weight; or

(c) weighed for entry into the inventory control system.

(9) A cannabis cultivation facility shall ensure that sanitary conditions are maintained on the premises, including ensuring proper and timely removal of litter and waste.

(10) A cannabis cultivation facility shall compartmentalize each area in the facility based on function.

(11) A cannabis cultivation facility shall limit access to the compartments to appropriate cannabis cultivation facility agents.

R66-1-5 Indoor and Outdoor Cannabis Cultivation Limitations.

(1) A cannabis cultivation facility that cultivates cannabis only indoors may use no more than 100,000 square feet for cultivation.

(2) A cannabis cultivation facility that cultivates cannabis only outdoors may use no more than four acres for cultivation.

(3) Pursuant to Subsection 4-41a-204(2)(e), a cannabis cultivation facility that uses a combination of indoor and outdoor cultivation shall be subject to the following formula:

(a) the cannabis cultivation facility may use no more than a total of two acres outdoors and 50,000 square feet indoors for cultivation; or

(b) the cannabis cultivation facility may use less than two acres outdoors or 50,000 square feet indoors for cultivation, but may not exceed the indoor or outdoor limit.

R66-1-6. Security Requirements.

(1) At a minimum, each cannabis cultivation facility shall have a security alarm system on each perimeter entry point and perimeter window.

(2) At a minimum, a licensed cannabis cultivation facility shall have a complete video surveillance system:

(a) with a minimum camera resolution of 640 x 470 pixels or pixel equivalent for analog; and

(b) that retains footage for at least 45 days.

(3) Cameras at a cannabis cultivation facility shall be fixed, record continuously, and placement shall allow for the clear and certain identification of any person or activities in a controlled area.

(4) Controlled areas include:

(a) each entrance and exit, or ingress and egress vantage point;

(b) each area within an indoor or outdoor room or area where cannabis is propagated, grown, harvested, dried, or trimmed;

(c) each area where cannabis is stored; and

(d) each area where cannabis waste is being moved, processed, stored, or destroyed.

(5) If a cannabis cultivation facility stores footage locally, the surveillance system storage device shall be secured in the facility in a lockbox, cabinet, closet, or secured in another manner to protect from employee tampering or criminal theft.

(6) If a cannabis cultivation facility stores footage on a remote server, access shall be restricted to protect from employee tampering.

(7) Any gate or entry point must be lighted in low-light conditions.

(8) Visitors to a cannabis cultivation facility shall be required to have a properly displayed identification badge issued by the facility while on the premises of the facility.

(9) Cannabis cultivation facility visitors shall be escorted by a cannabis cultivation facility agent while in the facility.

(10) A cannabis cultivation facility shall keep and maintain a log showing:

(a) the full name of each visitor entering the facility;

(b) the badge number issued;

(c) the time of arrival;

(d) the time of departure; and

(e) the purpose of the visit.

(11) The visitor log shall be maintained by the cannabis cultivation facility for a minimum of one year.

(12) The cannabis cultivation facility shall make visitor log available to the department upon request.

R66-1-7. Inventory Control.

(1) Each cannabis plant that reaches eight inches in height with a root ball shall be issued a unique identification number in the inventory control system, which follows the plant through the phases of production.

(2) Each cannabis plant, lot of usable cannabis trim, leaves, and other plant matter, test lot, and harvest lot shall be issued a unique identification number in the inventory control system.

(3) Unique identification numbers cannot be reused.

(4) Each cannabis plant, lot of usable cannabis trim, leaves, and other plant matter, cannabis product, test lot, harvest lot, and process lot that has been issued a unique identification number shall have a physical tag with the unique identification number.

(5) The tag shall be legible and placed in a position that can be clearly read and kept free from dirt and debris and include the following information:

(a) unique identification number;

(b) batch or lot number;

(c) strain;

(d) facility name and license number; and

(e) date entered into the inventory control system.

(6) The following shall be reconciled in the inventory control system at the close of business each day:

(a) movement of seedling or clone to the vegetation production area;

(b) when plants are partially or fully harvested or destroyed;

(c) when cannabis is being transported to other facilities;

(d) samples used for testing and the testing results;

(e) a complete inventory of cannabis clones, plants, trim, or other plant material;

(f) the weight of harvested cannabis plants immediately after harvest;

(g) the weight and disposal of post-harvest waste materials;

(h) the identity of the individual who disposed of the waste and the location of waste receptacle; and

(i) theft or loss, or suspected theft or loss, of cannabis.

(7) A receiving cannabis cultivation facility shall document in the inventory tracking system any cannabis received, and any differences between the quantity specified in the transport manifest and the quantities received.

(8) For plants under eight inches, the cultivation facility shall keep record of:

(a) the number of cannabis seeds or cuttings planted;

(b) the date they were planted;

(c) the date the plants were moved into the vegetation area and tagged;

(d) the strain of the seeds or cuttings;

(e) the number of plants grown to maturity;

(f) the number of plants disposed of; and

(g) the date of disposal.

R66-1-8. Cannabis Cultivation Facility Agents.

(1) A prospective cannabis cultivation facility agent shall apply to the department for a cannabis cultivation facility agent registration card on a form provided by the department.

(2) An application is not considered complete until the background check has been completed, the registration fee has been paid, and the prospective agent has submitted the required training certificate.

(3) The cannabis cultivation facility agent registration card shall contain:

(a) the agent's full name;

(b) identifying information; and

(c) a photograph of the agent.

(4) A cannabis cultivation facility is responsible to ensure that each cannabis cultivation facility agent has received any task specific training as outlined in the operating plan submitted to the department.

(5) A cannabis cultivation facility agent shall have a properly displayed identification badge which has been issued by the department while on the facility premises or while engaged in the transportation of cannabis.

(6) Each cannabis cultivation facility agent shall have their state issued identification in their possession to certify the information on their badge is correct.

(7) Each cannabis cultivation facility shall maintain a list of each employee that holds a cannabis cultivation facility agent registration card and provide the list to the department upon request.

R66-1-9. Pesticide and Fertilizer Use.

(1) A cannabis cultivation facility shall maintain:

(a) the material safety data sheet for any pesticide, fertilizer, or other agricultural chemical used in the production of cannabis which shall be accessible to any cannabis cultivation facility agent;

(b) the original label or a copy for each pesticide, fertilizer, or other agricultural chemical used in the production of cannabis; and

(c) a log of each pesticide, fertilizer, or other agricultural chemical used in the production of cannabis.

(2) Pesticides approved by the department may be used in the production, processing, and handling of cannabis.

(3) Each pesticide, fertilizer, and other agricultural chemical is to be stored in a separate location apart from cannabis.

(4) Pesticides shall be used consistent with the label requirements.

(5) Fertilizer registered with the department under Title 4, Chapter 13, the Utah Fertilizer Act, may be used in the production and handling of cannabis.

(6) Cannabis exposed to unauthorized pesticide, soil amendment, or fertilizer is subject to destruction at the cost of the cannabis cultivation facility.

R66-1-10. Transportation.

(1) A printed transport manifest shall accompany each transport of cannabis.

(2) The manifest shall contain the following information:

(a) the cannabis production establishment address and cannabis production establishment license number of the departure location;

(b) the physical address and cannabis production establishment license number of the receiving location;
(c) the strain name, quantity by weight, and unique identification number of each cannabis material to be transported;
(d) the date and time of departure;
(e) the estimated date and time of arrival; and
(f) the name and signature of each cannabis production establishment agent accompanying the cannabis.
(3) The transport manifest may not be voided or changed after departing from the original cannabis cultivation facility.
(4) A copy of the transport manifest shall be given to the receiving cannabis production establishment.
(5) The receiving cannabis establishment shall ensure that the cannabis material received is as described in the transport manifest and shall record the amount received for each strain into the inventory control system.
(6) The receiving cannabis establishment shall document at the time of receipt any differences between the quantity specified in the transport manifest and the quantities received in the inventory control system.
(7) During transport a cannabis cultivation facility shall ensure the cannabis is:
(a) shielded from the public view;
(b) secured; and
(c) temperature controlled if perishable.
(8) A cannabis cultivation facility shall contact the department within 24 hours if a vehicle transporting cannabis is involved in an accident that involves product loss.
(9) Only the registered agents of the cannabis cultivation facility may occupy a transporting vehicle.

R66-1-11. Recall Protocol.
(1) The department may initiate a recall of cannabis or cannabis products if:
(a) evidence exists that pesticides not approved by the department are present on or in the cannabis or cannabis product;
(b) evidence exists that residual solvents are present on or in cannabis or cannabis product;
(c) evidence exists that harmful contaminants are present on or in cannabis or cannabis product; or
(d) the department believes or has reason to believe the cannabis or cannabis product is unfit for human consumption.
(2) A cannabis cultivation facility's recall plan shall include, at a minimum:
(a) designation of at least one member of the staff who serves as the recall coordinator;
(b) procedures for identifying and isolating product to prevent or minimize distribution to patients;
(c) procedures to retrieve and destroy product; and
(d) a communications plan to notify those affected by the recall.
(3) The facility must track the total amount of affected cannabis or cannabis product and the amount of affected cannabis or cannabis product returned to the facility as part of the recall.
(4) A cannabis cultivation facility shall coordinate the destruction of the cannabis or cannabis product with the department and allow the department to oversee the destruction of the affected product.
(5) The department shall periodically check on the progress of the recall until the department declares an end to the recall.
(6) A cannabis cultivation facility shall notify the department before initiating a voluntary recall.

R66-1-12. Minimum Requirements for the Storage and Handling of Cannabis.
(1) Storage areas shall provide adequate lighting, sanitation, temperature, humidity, space, equipment, and security conditions for the storage of cannabis.
(2) Stored cannabis shall be at least six inches off the ground.
(3) Cannabis shall be stored away from other chemicals, lubricants, pesticides, fertilizers, or other potential contaminants.
(4) Cannabis that is outdated, damaged, deteriorated, misbranded, adulterated shall be stored separately by physical barrier until it is destroyed.

R66-1-13. Cannabis Waste Disposal.
(1) Solid and liquid wastes generated during cannabis cultivation shall be stored, managed, and disposed of in accordance with applicable state law.
(2) Wastewater generated during the cannabis production and processing shall be disposed of in compliance with applicable state law.
(3) Cannabis waste generated from the cannabis plant, trim, and leaves is not considered hazardous waste unless it has been treated or contaminated with a solvent, or pesticide.
(4) Cannabis waste shall be made unusable before leaving the cannabis cultivation facility.
(5) Cannabis waste not designated as hazardous, shall be made unusable by grinding and incorporating the cannabis plant waste with other ground materials so the resulting mixture is at least 50% non-cannabis waste by volume, or by other methods approved by the department before implementation.
(6) Materials used to grind with cannabis fall into two categories:
(a) compostable; or
(b) non-compostable.
(7) Compostable waste is cannabis waste to be disposed of as compost or in another organic waste method mixed with:
(a) food waste;
(b) yard waste; or
(c) vegetable-based grease or oils.
(8) Non-compostable waste is cannabis waste to be disposed of in a landfill or another disposal method, such as incineration, mixed with:
(a) paper waste;
(b) cardboard waste;
(c) plastic waste; or
(d) soil.
(9) Cannabis waste includes:
(a) cannabis plant waste including roots, stalks, leaves, and stems;
(b) excess cannabis or cannabis products from any quality assurance testing;
(c) cannabis or cannabis products that fail to meet testing requirements; and
(d) cannabis or cannabis products subject to a recall.

R66-1-14. Change in Operation Plans.
(1) A cannabis cultivation facility shall submit a notice, on a form provided by the department, before making any changes to:

(a) ownership or financial backing of the facility;
(b) the facility's name;
(c) a change in location;
(d) any modification, remodeling, expansion, reduction or physical, non-cosmetic alteration of a facility; or
(e) change in square footage or acreage of cannabis intended to be cultivated.
(2) A cannabis cultivation facility may not implement changes to the approved operation plan without department approval.
(3) The department shall approve of requested changes unless approval would lead to a violation of the applicable laws and rules of the state.
(4) The department shall specify the reason for the denial of approval for a change to the operation plan.

R66-1-15. Renewals.
(1) A cannabis cultivation facility shall submit a notice of intent to renew the cannabis cultivation facility license and the licensing fee to the department by December 1st.
(2) If the cannabis cultivation facility licensing fee and intent to renew the cannabis cultivation facility license are not submitted by December 31st the cannabis cultivation facility licensee may not continue to operate.
(3) Pursuant to Section 4-41a-03, the board shall renew a cannabis cultivation facility license unless they identify a significant violation of the applicable laws and rules of the state.

R66-1-16. Violations Categories.
(1) Public Safety Violations: $3,000 - $5,000 per violation. This category is for violations that present a direct threat to public health or safety including:
(a) use of unapproved pesticide or unapproved agricultural soil amendment;
(b) cannabis sold to an unlicensed source;
(c) cannabis purchased from an unlicensed source;
(d) refusal to allow inspection;
(e) failure to comply with testing requirements;
(f) a test result for high pesticide residue in the cannabis produced or cannabis product;
(g) unauthorized personnel on the premises;
(h) permitting criminal conduct on the premises; or
(i) engaging in or permitting a violation of the Title 4, Chapter 41a, Cannabis Production Establishments.
(2) Regulatory Violations: $1,000 - $5,000 per violation. This category is for violations involving this rule and other applicable state rules:
(a) failure to maintain alarm and security systems;
(b) failure to keep and maintain records for at least two years;
(c) failure to maintain traceability;
(d) failure to follow transportation requirements;
(e) failure to follow the waste and disposal requirements;
(f) engaging in or permitting a violation of Title 4, Chapter 41a, Cannabis Production Establishments or this rule; or
(g) failure to maintain standardized scales.
(3) Licensing Violations: $500- $5,000 per violation. This category is for violations involving licensing requirements including:
(a) an unauthorized change to the operating plan;
(b) failure to notify the department of changes to the operating plan;
(c) failure to notify the department of changes to financial or voting interests of greater than 2%;
(d) failure to follow the operating plan as approved by the department;
(e) engaging in or permitting a violation of this rule or Title 4, Chapter 41a, Cannabis Production Establishments; or
(f) failure to respond to violations.
(4) The department shall calculate penalties based on the level of violation and the adverse effect or potential adverse effect at the time of the incidents giving rise to the violation.
(5) The department may consider enhancing or reducing the penalty based on the seriousness of the violation.

KEY: marijuana, cannabis cultivation facility
Date of Last Change: 2024
Authorizing, and Implemented or Interpreted Law: 4-41a-404(3); 4-41a-103(5); 4-41a-204(2)(e); 4-41a-302(3)(b)(ii); 4-41a-701(2); 4-41a-405(2)(b)(iv); 4-2-103(1)(i); 4-41a-801(1)

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	**R66-2**	**Filing ID: 56365**

Agency Information

1. Department:	Agriculture and Food	
Agency:	Medical Cannabis and Industrial Hemp	
Building:	TSOB South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	**Phone:**	**Email:**
Amber Brown	385-245-5222	ambermbrown@utah.gov
Brandon Forsyth	801-710-9945	bforsyth@utah.gov
Kelly Pehrson	801-977-2147	kwpehrson@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R66-2. Cannabis Processing
3. Purpose of the new rule or reason for the change:
This rule originally existed as Rule R68-28.

However, a repeal has been filed on Rule R68-28 so it can be reenacted under a new title specific to medical cannabis and industrial hemp, Title R66.

4. Summary of the new rule or change:

This new rule is substantively the same as Rule R68-28, which is being repealed and simultaneously reenacted as Rule R66-2 under the new Title R66.

(EDITOR'S NOTE: The proposed repeal of Rule R68-28 is under ID No. 56364 in this issue, April 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 proposed new rule does not have a fiscal impact to the state because the rule text is not changing between the repeal and the new rule.

It is just being repealed to be reenacted under new Rule R66-2.

B) Local governments:

Local governments will not be impacted because they do not participate in the medical cannabis program.

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

This proposed new rule does not have a fiscal impact to small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed new rule does not have a fiscal impact to non-small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed new rule does not have a fiscal impact to other persons because the rule text is not changing between the repeal and the new rule.

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

Compliance costs are not impacted because the substance of the rule is not changing 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

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

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

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

Citation Information

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

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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024
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 W. Buttars, Commissioner	**Date:**	03/08/2024

R66. Agriculture and Food, Medical Cannabis and Industrial Hemp.

R66-2. Cannabis Processing.

R66-2-1. Authority and Purpose.

Pursuant to Subsections 4-41a-103(5), 4-41a-302(3)(b)(ii), 4-41a-404(3), 4-41a-405(2)(b)(iv), 4-41a-701(3), 4-41a-801(1), and 4-2-103(1)(i), this rule establishes the application process, qualifications, and requirements to obtain and maintain a cannabis processing license.

R66-2-2. Definitions.

(1) "Advertised Cannabinoid" means a cannabinoid listed on the product face.

(2) "Appealing to children" means:

(a) has a likeness bearing resemblance to a cartoon character or fictional character; or

(b) appears to imitate a food or other product that is typically marketed toward or is appealing to children.

(3) "Applicant" means any person or business entity who applies for a cannabis processing facility license.

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

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

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

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

(5) "Batch" means a quantity of:

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

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

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

(6) "Brand name" means a type of product manufactured by a particular company under a particular name. "Brand name" does not mean strains or flavors.

(7) "Board" means the Cannabis Production Establishment Licensing Advisory Board, created in Section 4-41a-201.1.

(8) "Cannabinoid isolate" means the same as the term is defined in Subsection R68-29-2(11).

(9)(a) "Cannabis" means any part of a marijuana plant.

(b) "Cannabis" does not mean, for the purposes of this rule, industrial hemp.

(10) "Cannabis concentrate" means the product of any chemical or physical process applied to cannabis biomass that concentrates or isolates the cannabinoids contained in the biomass.

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

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

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

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

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

(14) "Cannabis fact panel" means a part of the label that contains the information described in Subsections R68-28-13(6) and R68-28-13(7).

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

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

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

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

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

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

(17) "Cannabis processing facility agent" means an individual who holds a valid cannabis production establishment agent registration card with a cannabis processing facility designation.

(18) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

(a) authorizes an individual to act as a cannabis production establishment agent; and

(b) designates the type of cannabis production establishment for which an individual may act as an agent.

(19) "COA" means Certificate of Analysis from an independent cannabis testing laboratory.

(20) "Complaint" means any negative feedback received from a medical cannabis patient or medical cannabis or industrial hemp licensee.

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

(22) "Directions for use" means recommended routes of administration for a medical cannabis treatment and suggested usage guidelines, and may include:

(a) THC percentage;

(b) strain names;

(c) strain dominance; or

(d) dietary restrictions.

(23) "Label" means a written, printed, or graphic display on the immediate container of a product.

(24) "Labeling" means a label and other written, printed, or graphic display:

(a) on the product or the product's container or wrapper; or

(b) accompanying the product.

(25) "Logo" means symbols, stylized text, or both that represent a company through a visual image that can be easily understood and recognized.

(26) "Lot" means the quantity of:

(a) flower produced on a particular date and time, following clean up until the next clean up during which the same materials are used; or

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

(27) "Product face" means the part of a label that is on the outer packaging and most likely to be displayed, presented, or shown under customary conditions of display for retail sale.

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

R66-2-3. Cannabis Processing Facility License.

(1) A cannabis processing facility license allows the licensee to receive cannabis from a cannabis production facility.

(2) A Tier 1 cannabis processing facility license allows the licensee to:

(a) create cannabis concentrate;

(b) create cannabis derivative product; and

(c) package and label final product.

(3) A Tier 2 cannabis processing facility license allows the licensee to package and label cannabis and cannabis final product.

(4) A complete application shall include the required fee, statements, forms, diagrams, operation plans, copy of current Utah manufactured food establishment registration, and other applicable documents required in the application packet to be accepted and processed by the department.

(5) Before approving an application, the department may contact the applicant and request additional supporting documentation or information.

(6) Before issuing a license, the department shall inspect the proposed premises to determine if the applicant complies with state laws and rules.

(7) Each cannabis processing facility license shall expire one calendar year from the date of licensure.

(8) An application for renewals shall be submitted to the department 30 days before expiration.

(9) If the renewal application is not submitted 30 days before the expiration date, the licensee may not continue to operate.

(10) A cannabis production establishment license is not transferable or assignable. If the ownership of a cannabis production establishment changes by 50% or more, the requirements of Subsection 4-41a-201(15) shall be followed.

R66-2-4. Cannabis Processing Facility Requirements.

(1) A cannabis processing facility operating plan shall contain a blueprint of the facility containing the following information:

(a) the square footage of the areas where cannabis is to be extracted;

(b) the square footage of the areas where cannabis or cannabis products are to be packaged and labeled;

(c) the square footage of the areas where cannabis products are manufactured;

(d) the square footage and location of storerooms for cannabis awaiting extraction;

(e) the square footage and location of storerooms for cannabis awaiting further manufacturing;

(f) the area where finished cannabis and cannabis products are stored;

(g) the location of toilet facilities and hand washing facilities;

(h) the location of a break room and location of personal belonging lockers;

(i) the location of the areas to be used for loading and unloading of cannabis and cannabis products; and

(j) the total square footage of the overall cannabis processing facility.

(2) A cannabis processing facility shall have written emergency procedures to be followed in case of:

(a) fire;

(b) chemical spill; or

(c) other emergency at the facility.

(3) A cannabis processing facility shall have a written plan to handle potential recall and destruction of cannabis due to contamination.

(4) A cannabis processing facility shall use a standardized scale that is registered with the department when cannabis is:

(a) packaged for sale by weight;

(b) bought and sold by weight; or

(c) weighed for entry into the inventory control system.

(5) A cannabis processing facility shall compartmentalize each area in the facility based on function and shall limit access between compartments.

(6) A cannabis processing facility shall limit access to the compartments to the appropriate agents.

(7) A cannabis processing facility creating cannabis derivative product shall develop standard operating procedures.

(8) Pursuant to Subsection 4-41a-403(4)(b), a cannabis processing facility may use signage on the property that includes a logo, as long as the logo does not include:

(a) unprofessional terms, slang, phrasing, or verbiage associated with the recreational use of cannabis;

(b) any image bearing resemblance to a cartoon character or fictional character whose target audience is children or minors;

(c) content, symbol, or imagery that the cannabis processing facility knows or should know appeals to children;

(d) imagery featuring a person using the product in any way;

(e) any recreationally oriented subject; or

(f) any statement, design, or representation, picture, or illustration that is obscene or indecent.

(9) A cannabis processing facility shall keep records of any complaints received and make those records available to the department upon request.

(10) A cannabis processing facility shall keep records verifying that each time they receive a batch of vaporizer cartridges a sample is tested for heavy metals by an independent cannabis testing laboratory pursuant to Section 4-41a-603 or have a certificate of conformance from the manufacturer.

R66-2-5. Separation of Cannabis and Hemp Processed in a Single Facility.

(1) Any facility that has both an industrial hemp processing license and a license for medical cannabis processing shall ensure physical separation of medical cannabis and industrial hemp in their facility.

(2) Processing of industrial hemp material and cannabis material may not occur on the same equipment on the same day, unless cleaned between runs.

(3) Processing equipment may be considered neutral territory for hemp and cannabis if:

(a) only one material is present in neutral territory at a time;

(b) packaging tables in neutral territory are only used for the material being processed that day; and

(c) if packaging tables are used for another material they shall be moved to the respective side of the facility.

(4) If the facility uses the same machinery to process both industrial hemp and medical cannabis:

(a) the machinery shall be cleaned in between hemp and cannabis days;

(b) cleaning logs shall be kept and monitored by the department upon inspection of the facility; and

(c) cleaning logs shall include the machines used, the date cleaned, and the name of the employee that conducted the cleaning.

(5) Packaging of medical cannabis and industrial hemp may occur:

(a) in a neutral zone; or

(b) in a designated side of the facility.

(6) Freezer separation.

(a) Each licensee that processes both medical cannabis and industrial hemp shall have a separate freezer or a physical separation within the same freezer for each material.

(b) Cannabis and hemp material shall be clearly labeled pursuant to the requirements of this rule and Rule R68-25 and shall be in sealed containers.

(7) Storage separation.

(a) Industrial hemp and medical cannabis shall be stored in separate secure locations.

(b) Storage shall include storage for:

(i) final product;

(ii) raw material; and

(iii) processed material.

(8) Upon request, the licensee shall inform the department of how separation of materials is implemented, including the facility's separation procedures for raw material, extract, and final products.

R66-2-6. Cannabis Extraction Requirements.

(1) A cannabis processing facility shall ensure hydrocarbons n-butane, isobutane, propane, or heptane are of at least 99% purity.

(2) A cannabis processing facility shall use a professional grade extraction system designed to recover the solvents, work in an environment with proper ventilation, and control each source of ignition where a flammable atmosphere is or may be present.

(3) A cannabis processing facility using carbon dioxide (CO_2) gas extraction system shall use a professional grade closed loop CO_2 gas extraction system where each vessel is rated to a minimum of six hundred pounds per square inch and CO_2 shall be at least 99% purity.

(4) Closed loop hydrocarbon, alcohol, or CO_2 extraction systems shall be commercially manufactured and bear a permanently affixed and visible serial number.

(5) A cannabis processing facility using a closed loop system shall, upon request, provide the department with certification from a licensed engineer stating the system is:

(a) safe for its intended use;

(b) commercially manufactured; and

(c) built to conform to recognized and generally accepted good engineering practices, such as:

(i) the American Society of Mechanical Engineers (ASME);

(ii) American National Standards Institute (ANSI);

(iii) Underwriters Laboratories; or

(iv) The American Society for Testing and Materials.

(6) The certification document shall contain the signature and stamp of the certifying professional engineer and the serial number of the extraction unit being certified.

(7) A cannabis processing facility may use an alternative extraction method with prior approval from the department.

(8) A cannabis processing facility shall use food grade ingredients to create cannabis derivative product.

(9) A cannabis processing facility may use heat, screens, presses, steam distillation, ice water, and other mechanical methods which do not use solvents or gasses.

(10) A cannabis processing facility shall ensure each solvent, with the exception of CO_2, is extracted in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.

(11) A cannabis processing facility agent using solvents or gasses in a closed loop system shall be fully trained in the use of the system and have direct access to applicable material safety data sheets.

(12) Parts per million for one gram of finished extract cannot exceed residual solvent or gas levels provided in Rule R68-29.

R66-2-7. Cannabinoid Isolate.

(1) A licensed Tier 1 cannabis processing facility may use cannabinoid isolate from a licensed industrial hemp processing facility.

(2) A Tier 1 cannabis processing facility may not receive more than 120 kilograms of cannabinoid isolate in a single license year.

(3) Any transfer of cannabinoid isolate shall be accompanied by a full panel COA.

(4) The cannabis processing facility shall maintain record of each transfer of cannabinoid isolate that is available for review by the department, including:

(a) the source of the cannabinoid isolate and verification that it was derived from certified industrial hemp;

(b) the intended use of the cannabinoid isolate; and

(c) the disposition of the cannabinoid isolate.

(5) Upon receipt of cannabinoid isolate, a cannabinoid processing facility shall submit a sample of the isolate to a licensed independent cannabis testing laboratory for cannabinoid and adulterant testing, pursuant to the requirements of Rule R68-29.

R66-2-8. Security Requirements.

(1) At a minimum, each cannabis processing facility shall have a security alarm system on each perimeter entry point and perimeter window.

(2) At a minimum, a licensed cannabis processing facility shall have a complete video surveillance system:
(a) with minimum camera resolution of 1280 x 720 pixels or pixel equivalent for analog; and
(b) that retains footage for at least 45 days.
(3) Each camera shall be fixed and placement shall allow for the clear and certain identification of any person and activities in controlled areas.
(4) Controlled areas included:
(a) any entrances and exits, or ingress and egress vantage points;
(b) any areas where cannabis or cannabis products are stored;
(c) any areas where cannabis or cannabis products are extracted;
(d) any areas where cannabis or cannabis products are manufactured, packaged, or labeled; and
(e) any areas where cannabis waste is being moved, processed, stored, or destroyed.
(5) Each camera shall record continuously.
(6) For locally stored footage, the surveillance system storage device shall be secured in the facility in a lockbox, cabinet, closet, or secured in another manner to protect from employee tampering or theft.
(7) For footage stored on a remote server, access shall be restricted to protect from employee tampering.
(8) Any gate or entry point must have lighting sufficient to record activity occurring in low light conditions.
(9) Each visitor to a cannabis processing facility shall be required to display an identification badge issued by the facility while on the premises.
(10) At any time, visitors shall be escorted by a cannabis processing facility agent.
(11) A cannabis processing facility shall keep and maintain a visitors log showing:
(a) the full name of each visitor entering the facility;
(b) badge number issued;
(c) the time of arrival;
(d) the time of departure; and
(e) the purpose of the visit.
(12) The cannabis processing facility shall keep the visitors log for a minimum of one year.
(13) The cannabis processing facility shall make the visitor log available to the department upon request.

R66-2-9. Inventory Control.
(1) Each batch or lot of cannabis, cannabis derivative product, cannabis product, test sample, or cannabis waste shall be entered into the inventory control system. Recorded information shall include:
(a) unique identification number;
(b) package ID;
(c) name of product;
(d) facility name and license number; and
(e) date created.
(2) Each batch or lot of cannabis, cannabis derivative product, cannabis product, sample, or cannabis waste shall be traceable to the lot.
(3) Unique identification numbers may not be reused.
(4) Each batch, lot, or sample of cannabis shall have a unique identification number that is displayed on a physical tag.
(5) The tag shall be legible and placed in a position that can be clearly read.
(6) The following shall be reconciled in the inventory control system at the close of each business each day:
(a) date and time material containing cannabis are being transported to a cannabis production establishment or medical cannabis pharmacy;
(b) each sample used for testing and the test results;
(c) a complete inventory of material containing cannabis;
(d) cannabis product by unit count;
(e) weight per unit of product;
(f) weight and disposal of cannabis waste materials;
(g) the identity of who disposed of the cannabis waste and the location of the waste receptacles; and
(h) theft or loss or suspected theft or loss of material containing cannabis.
(7) A receiving cannabis processing facility shall document in the inventory control system any material containing cannabis received, and any difference between the quantity specified in the transport manifest and the quantity received.
(8) A cannabis processing facility shall immediately upon receipt of THC extract from a licensed industrial hemp processor enter the following information into the inventory control system:
(a) the amount of THC extract received;
(b) the name, address, and licensing number of the industrial hemp processor;
(c) the weight per unit of product received; and
(d) the assigned unique identification number.

R66-2-10. Cannabis Processing Facility Agents.
(1) A prospective cannabis processing facility agent shall apply to the department for a cannabis processing facility agent registration card on a form provided by the department.
(2) An application is not considered complete until the background check has been completed, the registration fee has been paid, and the prospective agent has submitted the required training certificate.
(3) The cannabis processing facility agent registration card shall contain:
(a) the full name of the agent;
(b) identifying information; and
(c) a photograph of the agent.
(4) A cannabis processing facility is responsible to ensure that each agent has received
any task specific training as outlined in the operating plan submitted to the department.
(5) A cannabis processing facility agent shall have a properly displayed identification badge which has been issued by the department at all times while on the facility premises or while engaged in the transportation of cannabis.
(6) Each cannabis processing facility agent shall have their state issued identification card in their possession to certify the information on their badge is correct.
(7) Each cannabis processing facility shall maintain a list of each employee that holds a cannabis processing facility agent registration card and provide the list to the department upon request.

R66-2-11. Minimum Storage and Handling Requirements.
(1) A cannabis processing facility shall store cannabis, cannabis concentrate, or cannabis product in a location separated by a physical barrier from outdated, damaged, deteriorated, misbranded,

or adulterated product or product whose containers or packaging have been opened or breached.

(2) Cannabis, cannabis concentrate, and cannabis product shall be stored at least six inches off the ground.

(3) Storage areas shall:

(a) be maintained in a clean and orderly condition; and

(b) be free from infestation by insects, rodents, birds, or vermin.

(4) A cannabis processing facility shall:

(a) track and label each cannabis plant product and cannabis concentrate;

(b) ensure each unfinished product is stored in a secure location; and

(c) immediately after completion of the process or at the end of the scheduled business day return to a secure location.

(5) Cannabis shall be stored away from other chemicals, lubricants, pesticides, or other potential contaminants.

(6) If a manufacturing process cannot be completed at the end of a working day, the processor shall securely lock the processing area or tanks, vessels, bins, or bulk containers containing cannabis inside an area or room that affords adequate security.

R66-2-12. Product Appearance and Flavor.

(1) A cannabis processing facility may not produce a cannabis product that is designed to mimic a candy product.

(2) A cannabis processing facility may not shape a cannabis product in any way to appeal to children.

R66-2-13. Processing of Cannabis and Cannabis Product.

(1) A cannabis processing facility shall process, manufacture, package, and label cannabis and cannabis product in accordance with 21 CFR 111, "Current Good Manufacturing, Packaging, Labeling, or Holding Operation for Dietary Supplements."

(2) Cannabis and cannabis product shall be packaged in child-resistant packaging in accordance with 16 CFR 1700.

(3) A cannabis processing facility shall package cannabis or cannabis product in accordance with this rule and Section 4-41a-602 before transportation to a medical cannabis pharmacy.

(4) Any container or packaging containing cannabis or cannabis product shall protect the product from contamination and may not impart any toxic or deleterious substance to the cannabis or cannabis product.

(5) Cannabis cultivation byproduct shall either be:

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

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

(6) Cannabis concentrate and product produced by cannabis processing facilities shall be tested pursuant to Rule R68-29.

(7) If a cannabis product contains artificially derived cannabinoids they shall be isolated to a purity of greater than 95%, as required by Subsection 4-41a-603(3).

(8) A cannabis product may vary in the cannabis product's labeled cannabinoid profile by up to 10% of the indicated amount of a given cannabinoid, by weight.

R66-2-14. Labeling and Packaging of Cannabis and Cannabis Product.

(1) Cannabis product labeling shall contain the following information:

(a) the medicinal dosage form identified on the product face along with the words "THC or Cannabis Infused":

(i) "gummies" may be used instead of "gelatinous cube";

(ii) "tincture" may be used instead of "sublingual preparation" or "liquid suspension"; and

(iii) a descriptive product name is allowed if the text is smaller than the dosage form and is no appealing to children;

(b) the name and license number of the cannabis processing facility;

(c) directions for consumers to contact the department with product complaints by going to medicalcannabis.utah.gov/production;

(d) for products containing THC, a warning symbol provided by the department; and

(e) the amount of total THC contained in the package, in milligrams.

(2) Before January 1, 2024, cannabis product labeling shall contain the following warning: "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a recommending medical provider."

(3) Starting on January 1, 2024, cannabis product labeling shall contain the following warning: "WARNING: Cannabis has intoxicating effects, may be addictive, and may increase risk of mental illness. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a recommending medical provider."

(4) Starting on May 3, 2023, raw cannabis or a cannabis product sold in a vaporizer cartridge shall include a warning label that states:

(a) "WARNING: Vaping of cannabis-derived products has been associated with lung injury."; and

(b) "WARNING: Inhalation of cannabis smoke has been associated with lung injury."

(5) A cannabis processing facility may include a QR code on the cannabis product labeling that links to a COA from a licensed independent cannabis testing laboratory. The QR code may not link to any other information.

(6) Any information appearing on the cannabis product labeling shall be:

(a) displayed in any legible font, that is not a script or decorative font, provided that the lowercase letter "o" is at least one-sixteenth inch in height;

(b) displayed in a color that contrasts conspicuously with its background; and

(c) displayed in English, although a licensee may also choose to display required information in additional languages.

(7) A cannabis processing facility shall place a cannabis fact panel on a cannabis product before the sale of the cannabis product to a medical cannabis pharmacy.

(8) The cannabis fact panel shall be printed in black and white.

(9) The cannabis fact panel shall be securely affixed to the package.

(10) The cannabis fact panel for cannabis plant product shall include the following information, from top to bottom, in the order as listed:

(a) the name of the cannabis cultivation facility;

(b) the lot number;

(c) the date of harvest;

(d) the date of final testing;
(e) the batch number;
(f) the date on which the product was packaged;
(g) the quantity of any cannabinoid listed as present on the COA that is greater than 1% of total cannabinoids;
(h) the expiration date; and
(i) the net weight displayed in grams.
(11) THC potency levels for cannabis flower shall be listed as total THC in milligrams per gram.
(12) The cannabis fact panel for cannabis derivative product shall include the following information, from top to bottom, in the order listed:
(a) the batch number;
(b) the date of the final testing;
(c) the date on which the product was packaged;
(d) for products intended to be ingested, the amount of total THC and any advertised cannabinoid in milligrams per serving;
(e) the quantity of any cannabinoid listed as present on the COA that is greater than 1% of total cannabinoids;
(f) the expiration date;
(g) the total amount of THC measured in milligrams per gram;
(h) a list of each ingredient and each major food allergen as identified in 21 U.S.C. 343;
(i) the identity of any artificially derived cannabinoid present in the product;
(j) the net weight of the product displayed in grams or milliliters and number of pieces, if applicable; and
(k) a disclosure of the type of extraction process used and any solvent, gas, or other chemical used in the extraction process.
(13) The label of a cannabis derivative product may include a flavor name if it is not candy-like or a name the facility knows or should know appeals to children.
(14) The label of a cannabis product that contains an artificially derived cannabinoid shall clearly display the following text: "This product contains artificially derived cannabinoids."
(15) Any terpene listed on a cannabis product package shall be verified as present by a licensed independent cannabis testing laboratory and have its quantity listed on the fact panel.
(16) A cannabis processing facility may include a logo and product brand name on the cannabis product face that is exempt from the requirements of Subsection R68-28-13(3) and that:
(a) does not exceed 20% of the product face;
(b) does not obscure the information required on the label; and
(c) does not include:
(i) unprofessional terms, slang, phrasing, or verbiage associated with the recreational use of cannabis;
(ii) any image bearing resemblance to a cartoon character or fictional character whose target audience is children or minors;
(iii) content, symbol, or imagery that the cannabis processing facility knows or should know appeals to children;
(iv) imagery featuring a person using the product in any way;
(v) any recreationally oriented subject; or
(vi) any statement, design, or representation, picture, or illustration that is obscene or indecent.
(17) No other information, illustration, or depiction with the exception of directions for use shall appear on the labeling.
(18) Shapes on cannabis product packaging or labeling may not resemble the product or real-world items.
(19) After January 1, 2023, cannabis product packaging, logos, and brand names shall be pre-approved by the department.

R66-2-15. Transportation.
(1) A printed transport manifest shall accompany each transport of cannabis.
(2) The manifest shall contain the following information:
(a) the cannabis production establishment address and license number of the departure location;
(b) physical address and license number of the receiving location;
(c) strain name, quantities by weight, and unique identification numbers of each cannabis material to be transported;
(d) date and time of departure;
(e) estimated date and time of arrival; and
(f) name and signature of each agent accompanying the cannabis.
(3) The transport manifest may not be voided or changed after departing from the original cannabis production establishment.
(4) A copy of the transport manifest shall be given to the receiving cannabis production establishment or medical cannabis pharmacy.
(5) The receiving cannabis processing facility, independent laboratory, or medical cannabis pharmacy shall ensure that the cannabis material received is as described in the transport manifest and shall:
(a) record the amounts received for each strain into the inventory control system; and
(b) document any differences between the quantity specified in the transport manifest and the quantities received in the inventory control system.
(6) During transportation, cannabis shall be:
(a) shielded from the public view;
(b) secured; and
(c) temperature controlled if perishable.
(7) A cannabis production facility shall contact the department within 24 hours if a vehicle transporting cannabis is involved in an accident that involves product loss.
(8) Only the registered agents of the cannabis processing facility may occupy a transporting vehicle.

R66-2-16. Recall Protocol.
(1) The department may initiate a recall of cannabis or cannabis products if:
(a) evidence exists that pesticides not approved by the department are present on or in the cannabis or cannabis product;
(b) evidence exists that residual solvents are present on or in cannabis or cannabis product;
(c) evidence exists that harmful contaminants are present on or in cannabis or cannabis product; or
(d) the department believes or has reason to believe the cannabis or cannabis product is unfit for human consumption.
(2) The recall plan of a cannabis processing facility shall include, at a minimum:
(a) a designation of at least one member of the staff who serves as the recall coordinator;
(b) procedures for identifying and isolating product to prevent or minimize distribution to patients;
(c) procedures to retrieve and destroy product; and
(d) a communications plan to notify those affected by the recall.

(3) The cannabis processing facility shall track the total amount of affected cannabis or cannabis product and the amount of affected cannabis or cannabis product returned to the facility as part of the recall.

(4) The cannabis processing facility shall coordinate the destruction of the cannabis or cannabis product with the department and allow the department to oversee the destruction of the affected product.

(5) The department has authority to monitor the progress of the recall until the department declares an end to the recall.

(6) A cannabis production facility shall notify the department before initiating a voluntary recall.

R66-2-17. Cannabis Waste Disposal.

(1) Solid and liquid wastes generated during cannabis processing shall be stored, managed, and disposed of in accordance with applicable state law.

(2) Wastewater generated during the cannabis production and processing shall be disposed of in compliance with applicable state law.

(3) Cannabis waste generated from the cannabis plant, trim, and leaves is not considered hazardous waste unless it has been treated or contaminated with a solvent or pesticide.

(4) Cannabis waste shall be made unusable before leaving the cannabis processing facility.

(5) Cannabis waste, that is not designated as hazardous, shall be made unusable by grinding and incorporating the cannabis waste with other ground materials so the resulting mixture is at least 50% non-cannabis waste by volume or other methods approved by the department before implementation.

(6) Materials used to grind and incorporate with cannabis fall into two categories:

(a) compostable; or

(b) non-compostable.

(7) Compostable waste is cannabis waste to be disposed of as compost or in another organic waste method mixed with:

(a) food waste;

(b) yard waste; or

(c) vegetable-based grease or oils.

(8) Non-compostable waste is cannabis waste to be disposed of in a landfill or another disposal method, such as incineration, mixed with:

(a) paper waste;

(b) cardboard waste;

(c) plastic waste; or

(d) soil.

(9) Cannabis waste includes:

(a) cannabis plant waste, including roots, stalks, leaves, and stems;

(b) excess cannabis or cannabis products from any quality assurance testing;

(c) cannabis or cannabis products that fail to meet testing requirements; and

(d) cannabis or cannabis products subject to a recall.

R66-2-18. Change in Operation Plans.

(1) A cannabis processing facility shall submit a notice, on a form provided by the department, before making any changes to the facility's operating plan, including:

(a) ownership or financial backing of the facility;

(b) the facility's name;

(c) a change in location;

(d) any modification, remodeling, expansion, reduction or physical, non-cosmetic alteration of a facility;

(e) change to the number of production lines; or

(f) any information requested by the department that shall allow the department to determine if requirements will be met.

(2) A cannabis processing facility may not implement changes to the initial approved operation plan without board approval.

(3) The board shall approve of requested changes unless approval would lead to a violation of the applicable laws and rules of the state.

(4) The department shall specify the reason for the denial of approval for a change to the operation plan.

(5) Before the board's review of a cannabis production establishment license under Subsection 4-41a-201.1(7)(e), the cannabis production establishment shall provide the board with:

(a) blueprints that show that there will be physical separation between medical cannabis and industrial hemp produced in their facility, including demonstrating storage and packaging areas on separate sides of the same room; and

(b) any information requested by the board that shall allow the board to determine if the requirements of Section R68-28-5 will be met before the medical cannabis production establishment processes industrial hemp or industrial hemp products.

R66-2-19. Renewals.

(1) A cannabis processing facility shall submit a notice of intent to renew and the licensing fee to the department within 30 days of license expiration.

(2) If the licensing fee and intent to renew are not submitted within 30 days of license expiration, the licensee may not continue to operate.

(3) The board may take into consideration significant violations issued in determining license renewals.

R66-2-20. Violation Categories.

(1) Public Safety Violations: $3,000- $5,000 per violation. This category is for violations which present a direct threat to public health or safety including:

(a) cannabis sold to an unlicensed source;

(b) cannabis purchased from an unlicensed source;

(c) refusal to allow inspection;

(d) failure to comply with testing requirements;

(e) a test result for high pesticide residue in the cannabis produced or cannabis product;

(f) a test result for high residual solvents, heavy metal, microbials, molds, or other harmful contaminants;

(g) failure to maintain required cleanliness and sanitation standards;

(h) unauthorized personnel on the premises;

(i) permitting criminal conduct on the premises;

(j) possessing, manufacturing, or distributing cannabis products that the person knows or should know appeal to children;

(k) failure to follow an approved recall protocol; or

(l) engaging in or permitting a violation of the Title 4, Chapter 41a, Cannabis Production Establishments, which amounts to a public safety violation as described in this subsection.

(2) Regulatory Violations: $1,000-$5,000 per violation. This category is for violations involving this rule and other applicable state rules including:

(a) failure to maintain alarm and security systems;

(b) failure to keep and maintain records for at least two years;
(c) failure to maintain traceability;
(d) failure to follow transportation requirements;
(e) failure to follow the waste and disposal requirements;
(f) failure to maintain separation between cannabis and hemp;
(g) failure to follow labeling and packaging requirements;
(h) failure to meet extraction requirements;
(i) distributing a final cannabis product with a weight that is lower than the net weight listed on the cannabis fact panel;
(j) engaging in or permitting a violation of Title 4, Chapter 41a, Cannabis Production Establishments or this rule which amounts to a regulatory violation as described in this subsection; or
(k) failure to maintain standardized scales.
(3) Licensing Violations: $500- $5,000 per violation. This category is for violations involving licensing requirements including:
(a) an unauthorized change to the operating plan;
(b) failure to notify the department of changes to the operating plan;
(c) failure to notify the department of changes to financial or voting interests of greater than 2%;
(d) failure to follow the operating plan as approved by the department;
(e) engaging in or permitting a violation of this rule or Title 4, Chapter 41a, Cannabis Production Establishments which amounts to a licensing violation as described in this subsection; or
(f) failure to respond to violations.
(4) The department shall calculate penalties based on the level of violation and the adverse effect or potential adverse effect at the time of the incidents giving rise to the violation.
(5) The department may enhance or reduce the penalty based on the seriousness of the violation.

KEY: cannabis processing, cannabis production establishment
Date of Last Change: 2024
Authorizing, and Implemented or Interpreted Law: 4-41a-103(5); 4-41a-404(3); 4-41a-701(3); 4-41a-302(3)(b)(ii); 4-2-103(1)(i); 4-41a-405(2)(b)(iv); 4-41a-801(1)

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	**R66-5**	**Filing ID: 56342**

Agency Information

1. Department:	Agriculture and Food
Agency:	Medical Cannabis and Industrial Hemp
Building:	TSOB South Bldg, Floor 2
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO Box 146500
City, state and zip:	Salt Lake City, UT 84114-6500

Contact persons:		
Name:	**Phone:**	**Email:**
Amber Brown	385-245-5222	ambermbrown@utah.gov
Brandon Forsyth	801-710-9945	bforsyth@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R66-5. Medical Cannabis Pharmacy
3. Purpose of the new rule or reason for the change:
This rule originally existed as Rule R68-40. However, a repeal has been filed on Rule R68-40 so it can be reenacted under a new title specific to medical cannabis and industrial hemp, Title R66.
4. Summary of the new rule or change:
This new rule is substantively the same as Rule R68-40, which is being repealed and simultaneously reenacted as Rule R66-5 under the new Title R66. (EDITOR'S NOTE: The proposed repeal of Rule R68-40 is under ID No. 56341 in this issue, April 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 proposed new rule does not have a fiscal impact to the state because the rule text is not changing between the repeal and the new rule. It is just being repealed to be reenacted under new Rule R66-5.
B) Local governments:
Local governments will not be impacted because they do not participate in the medical cannabis program.
C) Small businesses ("small business" means a business employing 1-49 persons)**:**

This proposed new rule does not have a fiscal impact to small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed new rule does not have a fiscal impact to non-small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed new rule does not have a fiscal impact to other persons because the rule text is not changing between the repeal and the new rule.

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

Compliance costs are not impacted because the substance of the rule is not changing 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

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

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

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

Citation Information

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

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: 05/01/2024

9. This rule change MAY become effective on: 05/08/2024

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 W. Buttars, Commissioner	**Date:**	03/07/2024

R66. Agriculture and Food, Medical Cannabis and Industrial Hemp.

R66-5. Medical Cannabis Pharmacy.

R66-5-1. Authority and Purpose.

(1) Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies and Subsection 4-2-103(1)(i) authorize this rule.

(2) This rule establishes operating and licensing standards and requirements to be followed by medical cannabis pharmacies and their employees.

R66-5-2. Definitions.

(1) "Cannabis waste" means cannabis product that is damaged, deteriorated, mislabeled, expired, returned, subject to a recall, or enclosed within a container or package that has been opened or breached.

(2) "Card" means any type of medical cannabis card or registration card, whichever applies, authorized under Title 26B, Chapter 4, Part 2 Cannabinoid Research and Medical Cannabis.

(3) "Cardholder area" means the area of a medical cannabis pharmacy where a product is purchased that is restricted to a medical cannabis cardholder, a medical cannabis pharmacy employee, or another individual authorized by the medical cannabis pharmacy to enter the cardholder area.

(4) "Courier agent" means a medical cannabis courier agent.

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

(6) "DHHS" means The Utah Department of Health and Human Services.

(7) "Direct supervision" means that a PMP is physically present at a medical cannabis pharmacy facility and immediately available for in-person face-to-face communication with the pharmacy agent.

(8) "Educational event" means an organized event:

(a) at which a medical cannabis pharmacy distributes, orally presents, or displays educational material; and

(b) that may be held either virtually or in-person.

(9)(a) "Educational material" means material or content used, displayed, sold, or distributed for an educational purpose by a medical cannabis pharmacy in-person or online in a business or professional capacity.

(b) Educational material includes:

(i) live or recorded content of an educational event; or

(ii) any printed educational material such as a placard, poster, fact sheet, book, pamphlet, flyer, or business card.

(10) "Limited access area" means an area of a medical cannabis pharmacy where medical cannabis and medical cannabis devices shall be stored that is:

(a) a lockable cabinet in a medical cannabis pharmacy facility to which only a pharmacy agent or PMP has access; or

(b) an indoor area or room of a medical cannabis pharmacy facility that is separated from the cardholder and public areas of the medical cannabis pharmacy by a physical barrier with suitable locks and an electronic barrier to detect entry doors.

(11) "Pharmacy agent" means a medical cannabis pharmacy agent.

(12) "PIC" means a pharmacist-in-charge who oversees the operation and generally supervises a medical cannabis pharmacy.

(13) "PMP" means a medical cannabis pharmacy medical provider

(14) "Public waiting area" means an area of the medical cannabis pharmacy where the public waits for cardholders and cardholders wait for authorization to enter the cardholder area.

(15) "Recreational disposition" means:

(a) slang words or phrasing associated with the recreational use of cannabis;

(b) an image of a celebrity or other person whose target audience is children or minors;

(c) content that encourages, promotes, or otherwise creates an impression that the recreational use of cannabis is legal or acceptable, or that the recreational use of cannabis has potential health or therapeutic benefits;

(d) content that promotes excessive consumption;

(e) content that is obscene or indecent; and

(f) content that a reasonable person knows or should know appeals to children.

(16) "Safeguard" means to maintain the confidentiality of the information accessed and not use, release, publish, disclose, or otherwise make available to any other person not authorized to access the information for any purpose other than those specifically authorized or permitted by applicable law.

(17) "State electronic verification system" means the same as the term is defined in Section 26B-4-202 and Subsection 4-41a-102(44).

(18) "Targeted marketing" means the same as the term is defined in Subsection 26B-4-201(55).

(19) "Utah resident" means an individual who has established a domicile in Utah.

R66-5-3. General Operating Standards.

(1) In addition to general operating standards established in Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, medical cannabis pharmacies shall comply with the operating standards established in this rule. Medical cannabis pharmacies shall:

(a) be well lit, well ventilated, clean, and sanitary;

(b) maintain a current list of employees working at the medical cannabis pharmacy that:

(i) includes employee name, department registration license classification and license number, registration expiration date, and work schedule; and

(ii) be readily retrievable for inspection by the department and may be maintained in paper or electronic form;

(c) have a counseling area to allow for confidential patient counseling; and

(d) have current and retrievable editions of the following reference publications, in print or electronic format, readily available and retrievable to medical cannabis pharmacy personnel:

(i) Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies;

(ii) Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; and

(iii) applicable administrative rules.

(2) A medical cannabis pharmacy may not distribute medical cannabis products or medical cannabis devices to a medical cannabis cardholder unless an employee who is a PMP is physically present and immediately available in the medical cannabis pharmacy.

(3) A medical cannabis pharmacy location shall be open for a cardholder to buy a medical cannabis product and medical devices for a minimum of 35 hours a week, except as authorized by the department.

(4) A medical cannabis pharmacy that closes during normal hours of operation shall implement procedures to notify cardholders when the medical cannabis pharmacy will resume normal hours of operation. Procedures may include telephone system messages and conspicuously posted signs.

(5)(a) Deliveries from a cannabis processing facility or another medical cannabis pharmacy shall be carried out under the direct supervision of a PMP or pharmacy agent.

(b) A PMP or pharmacy agent shall be present to accept the delivery.

(c) Upon delivery, the medical cannabis product or medical cannabis devices shall immediately be placed in a limited access area of the medical cannabis pharmacy.

(6) A medical cannabis pharmacy shall protect confidential cardholder data and information stored in the Electronic Verification System to ensure that access to and use of the data and information is limited to those individuals and purposes authorized under Title

26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis and this rule.

(7) A medical cannabis pharmacy may not dispense expired, damaged, deteriorated, misbranded, adulterated, or opened medical cannabis products or medical cannabis devices.

(8)(a) A medical cannabis pharmacy license may not be assigned or transferred but a licensee may make changes to its ownership or company structure.

(b) Any changes to a pharmacy's ownership or company structure shall be reported to the department no later than ten calendar days before the change is to take place.

(c) When making a change to its ownership, a licensee may not:

(i) make an ownership change by an interest of 2% or more without notification of the department at least 10 days before the date of the change; and

(ii) make an ownership change by an interest of 50% or more without applying to the department and receiving department approval and payment of the fee authorized under Subsection 4-41a-1001(3)(c) that the department sets in accordance with Section 63J-1-504.

(9) When applying to the department for approval of an ownership change of more than 50%, the medical cannabis pharmacy shall submit to the department:

(a) a complete application form;

(b) payment of an application fee that covers the cost of the application review;

(c) a description of how the medical cannabis pharmacy maintains its compliance with the minimum standards for licensure and operation of the medical cannabis pharmacy; and

(d) the results of any formal investigation or adverse action taken against the new owners or individuals with financial or management control who make up the new owners, during the past seven years by any licensing jurisdiction, government agency, law enforcement agency, or court.

(10) A medical cannabis pharmacy shall provide a copy of a certificate of analysis for a medical cannabis product to a medical cannabis cardholder or a recommending medical provider if:

(a) it is requested in writing; and

(b) the requestor signs a non-disclosure agreement upon request by the medical cannabis pharmacy.

(11) A medical cannabis pharmacy may be in the same building as a medical clinic that offers medical cannabis evaluations under the following conditions:

(a) the building owner may not be the medical cannabis pharmacy or an owner, director, board member, employee, or agent of the medical cannabis pharmacy; and

(b) the two businesses cannot share an outdoor entrance unless the entrance leads to a common area shared by multiple tenants of the building where the two businesses have separate facility entrances to facility reception areas separated by walls and locked doors.

R66-5-4. Operating Plan.

(1) A medical cannabis pharmacy license application shall include an operating plan that at a minimum, consists of the following:

(a) the information requested in the application;

(b) the information listed in Section 4-41a-1004; and

(c) a plan to comply with applicable operating standards, statutes, and administrative rules, including:

(i) Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies; and

(ii) applicable administrative rules.

(2)(a) The department may require the applicant for a medical cannabis pharmacy license to make a change to its operating plan before issuing a pharmacy license.

(b) The applicant shall submit a copy of its updated operating plan, with the required change and receive department approval of the plan before the department awards the license.

(3)(a) Once the department issues a license, any change to a medical cannabis pharmacy's operating plan is subject to the approval of the department.

(b) A medical cannabis pharmacy shall submit a notice, in a manner determined by the department at least 14 days before the date that it plans to implement any change to its operating plan.

R66-5-5. Pharmacist-In-Charge.

(1)(a) PICs shall have the responsibility to oversee the medical cannabis pharmacy's operation.

(b) The PIC shall generally supervise the medical cannabis pharmacy, though the PIC is not required to be on-site during business hours.

(2)(a) Each medical cannabis pharmacy shall have a unique email address to be used for official notices, self-audits, or alerts initiated by the department.

(b) The medical cannabis pharmacy shall identify the email address in their initial license application and inform the department within seven calendar days if the email address is changed.

(c) The email address may not be used to send any patient information.

(3) The duties of the PIC shall include:

(a) ensure that PMPs and pharmacy agents appropriately interpret and distribute a recommendation from a recommending medical provider in a suitable container appropriately labeled for administration or use by a patient;

(b) ensure that medical cannabis products and medical cannabis devices are distributed safely and accurately with correct dosing guidelines and directions of use as recommended by a recommending medical provider;

(c) ensure that PMPs and pharmacy agents communicate to a cardholder, at their request, information concerning any medical cannabis product or medical cannabis devices distributed to the cardholder;

(d) ensure that medical cannabis pharmacy personnel receive necessary education and training;

(e) establish policies for procurement of medical cannabis products, medical cannabis devices, and educational material sold at the facility;

(f) distribute and dispose of medical cannabis products and medical cannabis devices from a medical cannabis pharmacy;

(g) ensure appropriate storage of medical cannabis products and medical cannabis devices;

(h) maintain a complete and accurate record of products and transactions of the medical cannabis pharmacy necessary to maintain accurate control and accountability for materials required by applicable state laws;

(i) establish effective control against theft or diversion of medical cannabis products or medical cannabis devices, and record of the product;

(j) ensure legal operation of the medical cannabis pharmacy, including inspections, and other requirements, of state law;

(k) implement an ongoing quality assurance program that monitors the performance of the personnel at the medical cannabis pharmacy;

(l) ensure that the point-of-sale is in working order;

(m) ensure that relevant information is submitted to the state's Inventory Control System and Electronic Verification System in a timely manner;

(n) ensure that medical cannabis pharmacy personnel have appropriate licensure and registration;

(o) ensure that no medical cannabis pharmacy operates with a ratio of PMPs to pharmacy agents that results in, or reasonably would be expected to result in, a reasonable risk of harm to public health, safety, and welfare; and

(p) ensure that the PIC assigned to the medical cannabis pharmacy is recorded with the department, and the department is notified of a PIC change within 14 days of the change or within 24 hours of an immediate change in a PIC's employment status in case of sudden resignation, termination, or emergency leave.

(4) A PMP cannot be designated as PIC for more than two medical cannabis pharmacies at one time.

R66-5-6. Supervision.

(1) A medical cannabis pharmacy licensee shall ensure that the pharmacy is always under the charge of the medical cannabis pharmacy's PIC as well as under the direct supervision of at least one supervising PMP, who is physically present when a medical cannabis pharmacy is open to the public.

(2) A medical cannabis pharmacy PIC is not required to be in the medical cannabis pharmacy at all times but shall be available for contact within a reasonable period with the supervising PMP.

R66-5-7. Security Standards.

(1) A medical cannabis pharmacy shall comply with security standards established in Section 4-41a-1101 and this rule.

(2) A medical cannabis pharmacy shall have security equipment sufficient to deter and prevent unauthorized entrance into a limited access area of the medical cannabis pharmacy that includes equipment required in this section.

(3) A medical cannabis pharmacy shall have a system to detect unauthorized intrusion, which may include a signal system interconnected with a radio frequency method, such as cellular or private radio signals, or another mechanical or electronic device.

(4) A medical cannabis pharmacy shall be equipped with a secure lock on any entrance to the medical cannabis pharmacy.

(5) A medical cannabis pharmacy shall have electronic monitoring including:

(a) at least one 19-inch or greater call-up monitor;

(b) a printer, capable of immediately producing a clear still photo from any video camera image;

(c) a video camera with a recording resolution of at least 640 x 470, or the equivalent, that provides coverage of entrances to and exits from limited access areas, entrances to and exits from the building, and is capable of identifying any activity occurring in or adjacent to the building;

(d) a video camera that records continuously, 24 hours a day, 7 days a week or be motion activated;

(e) a video camera at each point-of-sale and product destruction or disposal location that will allow for the identification of a medical cannabis cardholder, visitor, or pharmacy employee;

(f) a method for storing video recordings from the video camera for at least 45 calendar days:

(i) a surveillance system storage device used for locally stored footage shall be secured in the facility in a lock box, cabinet, closet, or secured in another manner, to protect from employee tampering or criminal theft; and

(ii) access to footage stored on a remote server shall be restricted to protect from employee tampering;

(g) a failure notification system that provides an audible and visual notification of failure in the electronic monitoring system;

(h) sufficient battery backup for a video camera and recording equipment to support at least five minutes of recording in the event of a power outage;

(i) a date and time stamp embedded on video camera recordings that is set correctly; and

(j) a panic alarm in the interior of the facility that is a silent security alarm system signal generated by the manual activation of a device intended to signal a robbery in progress.

(6) Security measures implemented by a medical cannabis pharmacy to deter and prevent unauthorized entrance in areas containing products or theft of products and to ensure the safety of employees and cardholders, shall include measures to:

(a) store medical cannabis products and medical cannabis devices in a secure locked limited access area in a manner as to prevent diversion, theft, and loss;

(b) keep safes, vaults, and any other equipment or areas used for storage, including before disposal of the product, securely locked and protected during times other than the time required to remove or replace medical cannabis a product or medical cannabis devices;

(c) keep locks and security equipment in good working order and test that equipment is functioning properly at least two times per calendar year;

(d) prohibit keys from being left in locks, stored, or placed in a location accessible to any person other than specifically authorized personnel;

(e) prohibit accessibility of security measures such as combination numbers, passwords, or electronic, or biometric security systems, to any person other than specifically authorized personnel;

(f) ensure that the outside perimeter of the building is sufficiently lit to facilitate surveillance;

(g) ensure that medical cannabis products and medical cannabis devices are kept out of plain sight and are not visible from a public place;

(h) secure each product following any instance of diversion, theft, or loss of product, and conduct an assessment to determine whether additional safeguards are necessary;

(i) ensure safe cash handling and cash transportation to prevent theft, loss, and associated risk to the safety of employees, customers, and the general public at any medical cannabis pharmacy where a cash transaction is conducted; and

(j) prevent an individual from remaining on the premise of the medical cannabis pharmacy if they are not engaging in activity permitted by Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis or Title 4, Chapter 41a, Medical Cannabis Production Establishments and Pharmacies.

(7) A medical cannabis pharmacy may display, in a securely locked case, a sample of each product offered:

(a) the display case shall be transparent; and

(b) an authorized PMP or pharmacy agent may remove an example of medical cannabis or a medical cannabis device from the case and provide it to a cardholder for inspection, provided:

(i) the patient does not consume or otherwise use the sample;

(ii) the processor label from the original product container or an image showing the processor label is affixed to the sample's container with the unique identifying number that links the medical cannabis product to the ICS; and

(iii) the medical cannabis product is destroyed in compliance with applicable laws and the pharmacy's standard operating procedures.

(8) Inside the medical cannabis pharmacy, medical cannabis product and medical cannabis devices, shall be stored in a limited access area during non-business hours.

(9)(a) While inside the medical cannabis pharmacy, each employee shall wear an identification tag or similar form of identification, to clearly identify them to the public.

(b) The tag shall list the employees' position at the medical cannabis pharmacy as a PMP or pharmacy agent.

(10) A medical cannabis pharmacy shall include the following areas:

(a) public waiting area;

(b) cardholder-only area; and

(c) limited access area.

(11) A medical cannabis pharmacy shall allow only a medical cannabis cardholder, PMP, pharmacy agent, authorized vendor, contactor, or visitor, to have access to the cardholder area of the medical cannabis pharmacy.

(12)(a) An outside vendor, contractor, or a visitor shall obtain a visitor identification badge before entering the cardholder-only, or limited access area of a medical cannabis pharmacy.

(b) The badge shall be worn at all times when on the premise of the medical cannabis pharmacy.

(c) Each visitor shall be escorted at all times by an employee authorized to enter the medical cannabis pharmacy.

(d) Each visitor shall log in and out and that log shall be available for inspection by the department.

(e) Each visitor shall return their badge to the medical cannabis pharmacy upon exit.

(13)(a) A medical cannabis pharmacy shall keep product that is inside the medical cannabis pharmacy in a limited access area, inaccessible to any person other than a PMP, pharmacy agent, state employee, or an individual authorized by the medical cannabis pharmacy's PIC.

(b) The limited access area under Subsection (13)(a) shall:

(i) be identified by the posting of a sign that is a minimum of 12" x 12;" and

(ii) states: "Limited Access Area," in lettering no smaller than one inch in height.

(14) If a cabinet or drawer is used as a limited access area, it is not required to have a "Limited Access Area" sign on it.

(15) Only a PMP or a pharmacy agent shall have access to the medical cannabis pharmacy when the medical cannabis pharmacy is closed to the public.

(16)(a) The medical cannabis pharmacy, or parent company, shall maintain a record of not less than five years of the initials or identification codes that identify each PMP or pharmacy agent by name.

(b) The initial or identification code under Subsection (16)(a):

(i) shall be unique, to ensure that each PMP or pharmacy agent can be identified; and

(ii) may not be used for two or more PMPs or pharmacy agents.

R66-5-8. Inventory.

(1) A medical cannabis pharmacy shall inventory and store medical cannabis products and medical cannabis devices:

(a) in a manner to permit clear identification, separation, and easy retrieval of a product; and

(b) in an environment necessary to maintain the integrity of product inventory.

(2) A medical cannabis pharmacy shall use the ICS to establish a record of each transaction, sale, return, and disposal.

(3) A medical cannabis pharmacy shall input information regarding the purchase of medical cannabis products or medical cannabis devices into the ICS immediately following each transaction.

(4) A medical cannabis pharmacy shall establish and document daily and weekly inventory controls of medical cannabis product and medical cannabis devices to help the pharmacy detect any diversion, theft, or loss of product in a timely manner.

(5)(a) A PMP at each medical cannabis pharmacy shall conduct a monthly inventory that includes a reconciliation of each medical cannabis product and medical cannabis device stored at the pharmacy with the pharmacy's inventory record in the ICS.

(b) Pharmacy agents may assist a PMP with the monthly inventory.

(c) A monthly inventory shall include:

(i) the time and date of completing the inventory;

(ii) a summary of the inventory findings; and

(iii) the name and signature or initials of the PMP who conducted the inventory.

(6) If a medical cannabis pharmacy employee identifies a reduction in the number of medical cannabis products or medical cannabis devices in their inventory that is not due to a documented cause, the pharmacy shall immediately:

(a) determine where the loss occurred and take and document corrective action;

(b) inform the department of the loss by telephone; and

(c) provide written notice of the loss and the corrective action taken to the department within two business days after the discovery of the loss.

(7) If a reduction in the number of medical cannabis products or medical cannabis devices in the inventory is due to actual or suspected criminal activity, the medical cannabis pharmacy shall immediately make a written report identifying the circumstances surrounding the reduction to:

(a) the department; and

(b) to law enforcement with jurisdiction where the criminal acts occurred.

(8) If a medical cannabis pharmacy employee identifies an increase in the amount of medical cannabis products or medical cannabis devices in the inventory not due to documented causes, the medical cannabis pharmacy shall determine where the increase occurred and take and document corrective action.

(9)(a) The PIC shall conduct and complete an annual comprehensive inventory of products at a medical cannabis pharmacy within 72 hours or three working days of the pharmacy's first annual comprehensive inventory.

(b) The annual comprehensive inventory shall include:

(i) the time and date of the inventory;

(ii) a summary of the inventory findings; and

(iii) the name and signature or initials of the PIC who conducted the inventory.

(10) The medical cannabis pharmacy shall keep records of each monthly inventory and comprehensive annual inventory for five years.

(11)(a) Inventory records may be electronic or physical.

(b) If physical records are kept, the physical records shall be located at the medical cannabis pharmacy where the medical cannabis products and medical cannabis devices are located.

(c) If a medical cannabis pharmacy intends to maintain records at a location other than the medical cannabis pharmacy, they send a written request to the department that contains:

(i) the medical cannabis pharmacy name and license number; and

(ii) the name and address of the alternate location.

(b) The department shall approve or deny the request through written notification.

(c) A copy of the department's approval shall be maintained by the medical cannabis pharmacy.

(d) The alternate location shall be secured and accessible only to authorized medical cannabis pharmacy employees.

(11) Upon request, a medical cannabis pharmacy shall provide any documentation required to be maintained in this rule to the department for review.

R66-5-9. Transportation.

(1) Transport of medical cannabis from a medical cannabis pharmacy to another location may occur only when:

(a) a home delivery medical cannabis pharmacy is delivering shipments of medical cannabis or medical cannabis devices to a cardholder's home address or caregiver facility;

(b) a medical cannabis pharmacy or cannabis production establishment is transporting medical cannabis or a medical cannabis device from a medical cannabis pharmacy facility to a cannabis production establishment facility or waste disposal location to be disposed of; or

(c) a product recall is initiated and medical cannabis or a medical cannabis device must be returned from a medical cannabis pharmacy to the cannabis production establishment.

(2) Medical cannabis product and medical cannabis devices to be returned to a cannabis production establishment shall be:

(a) logged into the ICS;

(b) stored in a locked container with clear and bold lettering: "Return"; and

(c) prepared for return in compliance with any guideline and protocol of the cannabis production establishment for collecting, storing, and labeling a returned product.

(3) A PMP or pharmacy agent that accepts a shipment of medical cannabis or a medical cannabis device at a medical cannabis pharmacy facility from a cannabis production establishment shall:

(a) get a copy of the transport manifest;

(b) not delete, void, or change information on the transport manifest;

(c) ensure that the medical cannabis product and medical cannabis devices received from a cannabis production establishment are as described in the transport manifest;

(d) record on the manifest:

(i) the amount received into the ICS; and

(ii) the unique initial or identification code of the medical cannabis pharmacy employee who compares the received inventory with the transport manifest;

(e) document any difference between the quantity specified in the transport manifest and the quantity received in the ICS; and

(f) log any change to medical cannabis product or medical cannabis devices that may have occurred while in transport in the ICS.

(4) A medical cannabis pharmacy may only receive medical cannabis products in their final packaging.

R66-5-10. Cannabis Disposal and Waste.

(1) A medical cannabis pharmacy shall dispose of cannabis waste at the medical cannabis pharmacy location or a location of a cannabis production establishment licensed by the department.

(2) In addition to complying with standards for cannabis disposal and waste established in Subsection 4-41a-1101(11), a medical cannabis pharmacy shall:

(a) designate a location in the limited access area of the medical cannabis pharmacy where cannabis waste shall be securely locked and stored;

(b) designate a lockable container or containers that are clearly and boldly labeled with the words "Not for Sale or Use;"

(c) ensure the medical cannabis product is logged in the ICS at the time of disposal with appropriate information including:

(i) a description of and reason for the disposal;

(ii) date of disposal;

(iii) method of disposal; and

(iv) name and registration identification number of the agent responsible for the disposal;

(d) ensure that wastewater generated during the cannabis waste disposal process is disposed of in compliance with applicable state laws and rules; and

(e) ensure that cannabis waste disposed of is made unusable.

(3)(a) Cannabis waste generated from the cannabis plant, trim, and leaves is not considered hazardous waste unless it has been treated or contaminated with a solvent or pesticide.

(b) Cannabis waste that is not designated as hazardous shall be made unusable by grinding and incorporating the cannabis waste with other ground materials so the resulting mixture is at least 50% non-cannabis waste by volume or other methods approved by the department.

(c) Materials used to grind and incorporate with cannabis may be compostable or non-compostable.

(i) Compostable waste is cannabis waste to be disposed of as compost or in another organic waste method mixed with:

(A) food waste;

(B) yard waste; or

(C) vegetable-based grease or oils.

(ii) Non-compostable waste is cannabis waste to be disposed of in a landfill or another disposal method, such as incineration, mixed with:

(A) paper waste;

(B) cardboard waste;

(C) plastic waste; or

(D) soil.

R66-5-11. Product Recall.

(1) A recall may be initiated by a cannabis production establishment, a medical cannabis pharmacy, or the department.

(2) A medical cannabis pharmacy shall maintain a recall plan that includes, at a minimum:

(a) a designation of at least one employee who shall serve as the recall coordinator;

(b) if the recall is initiated by a medical cannabis pharmacy, a requirement that the pharmacy will immediately notify the department and the cannabis production establishment from which it obtained the cannabis product in question;

(c) a requirement that notification occur within 24 hours of the pharmacy becoming aware of a complaint about the medical cannabis product or medical cannabis device;

(d) a procedure to identify and isolate recalled product to prevent or minimize distribution to patients;

(e) a procedure to retrieve and destroy recalled product; and

(f) a communication plan to notify those affected by the recall.

(3) The medical cannabis pharmacy shall track the total amount of affected medical cannabis product and the amount of medical cannabis product returned to the medical cannabis pharmacy as part of the recall.

(4) The medical cannabis pharmacy shall coordinate the destruction of the medical cannabis product with the department and allow the department to oversee the destruction.

(5) A medical cannabis pharmacy shall notify the department before initiating a voluntary recall.

R66-5-12. Partial Filling.

A PMP or pharmacy agent who partially fills a recommendation for a medical cannabis cardholder shall specify in the ICS the following:

(1) date of partial fill;

(2) quantity supplied to the cardholder; and

(3) quantity remaining of the recommendation partially filled.

R66-5-13. Closing a Pharmacy.

(1) At least 14 days before the closing of a medical cannabis pharmacy, the PIC shall:

(a) send written notice to the department with the name, address, and department issued license number of the medical cannabis pharmacy;

(b) surrender the license issued to the medical cannabis pharmacy;

(c) provide a statement to the department attesting:

(i) a comprehensive inventory was conducted;

(ii) the manner in which the medical cannabis product and medical cannabis devices will be transferred or disposed of;

(iii) the anticipated date of closing;

(iv) the name, address, and department issued license number of the medical cannabis pharmacy or cannabis production establishment acquiring the medical cannabis and medical cannabis devices from the medical cannabis pharmacy that is closing;

(v) the date when the transfer of the medical cannabis product and medical cannabis devices will occur; and

(vi) the name and address of the medical cannabis pharmacy to which the orders, including any refill information and patient records, will be transferred; and

(c) post a closing notice in a conspicuous place at the public entrance doors to the medical cannabis pharmacy that includes the closing date.

(2) If the PIC cannot provide notification 14 days before closing because the medical cannabis pharmacy is closed suddenly due to fire, destruction, natural disaster, death, property seizure, eviction, bankruptcy, they shall notify the department no later than 24 hours after the closing.

(3) If the PIC is not available to comply with the requirements of this section, the owner or legal representative shall be responsible for compliance with this section.

(4) On the date of the closing, the PIC shall remove medical cannabis product and medical cannabis devices from the medical cannabis pharmacy by one or a combination of the following methods:

(a) transport them to a cannabis processing facility for credit or disposal; or

(b) transfer or sell them to a person who is legally entitled to have medical cannabis products and medical cannabis devices, such as another medical cannabis pharmacy in Utah.

(5) The PIC shall remove signs and notify the landlord of the property that it is unlawful to use the word "medical cannabis pharmacy," or any other words of the same or similar meaning or any graphic representation that would mislead the public that a medical cannabis pharmacy is located at the address.

R66-5-14. Abandonment of a License.

A medical cannabis pharmacy shall be considered to have abandoned their license if they fail to begin operations within one year after the day on which the department issues an intent to award a medical cannabis pharmacy license.

R66-5-15. Walk- up, Drive-Thru and Curbside Service.

(1) A medical cannabis cardholder may contact a medical cannabis pharmacy by phone or online before the time of walk-up, drive-thru, or curbside service pick-up to make an order.

(2)(a) A medical cannabis cardholder transaction may take place outside the medical cannabis pharmacy facility, but shall occur within the total property boundary of the licensed entity.

(b) Walk-up, drive-thru, and curbside service transactions shall occur at a licensed location that is owned, leased, or rented by the licensed entity and may not occur on a public sidewalk or an adjacent parking lot.

(3)(a) If a product is bought with cash, the cash must be taken into the medical cannabis pharmacy facility after each transaction.

(b) If a medical cannabis pharmacy obtains approval from the Division of Finance to accept customer payments through an electronic payment provider, a medical cannabis cardholder using walk-up, drive-thru, and curbside pick-up service may make payments using the approved electronic payment provider.

(4)(a) Medical cannabis products and medical cannabis devices, including those that are awaiting pick-up, shall be securely stored in the medical cannabis pharmacy facility until a medical cannabis cardholder arrives for pick-up.

(b) Under no circumstances may a medical cannabis product or medical cannabis device be stored outside of a medical cannabis pharmacy facility before a customer arrives to pick-up the product.

(5)(a) A medical cannabis pharmacy's video surveillance shall enable the video recording of each medical cannabis cardholder transaction.

(b) Subsection (a) includes:

(i) video surveillance of a cardholder, cardholder vehicle, medical cannabis pharmacy employee verifying the cardholder's valid form of government issued identification; and

(ii) the transfer and dispensing of an item bought by a cardholder.

(c) Video cameras shall record points of entry and exit of a parking lot and shall be angled to ensure the capture of clear and certain identification of a cardholder and their vehicle's license plate.

(6)(a) The individual receiving the delivery of a product from the medical cannabis pharmacy employee via walk-up, drive-thru or curbside pick-up shall be a cardholder.

(b) When drive-thru service is used, the medical cannabis cardholder verifying their ID to the medical cannabis pharmacy shall be visible to cameras and to the medical cannabis pharmacy employee who is helping them.

(7) Children under age 18 may be present in a vehicle that arrives for drive-thru or curbside pick-up service.

(8)(a) When a PMP's consultation with a medical cannabis cardholder is required, the consultation may be provided in-person, over the phone, or with another real-time communications device.

(b) It is the responsibility of the medical cannabis pharmacy to ensure the privacy of these consultations regardless of where or how the consultations happen.

(9) When a medical cannabis pharmacy employee transports a container of medical cannabis product to a medical cannabis cardholder via walk-up, drive-thru, or curbside service, the container shall be contained within a box or an opaque bag.

(10) When drive-thru service is used, a medical cannabis pharmacy may use a secure drive-thru drawer or pneumatic tube to transport medical cannabis product, medical cannabis device, educational materials, valid photo identification, cash, and other documents between a medical cannabis pharmacy employee and a medical cannabis cardholder.

R66-5-16. Targeted Marketing.

(1) A medical cannabis pharmacy may engage in targeted marketing pursuant to Subsection 4-41a-1104(2)(f).

(2) Targeted marketing that makes a statement relating to side effects, consequences, contraindications, and effectiveness shall present a true statement of the information.

(3) Targeted marketing is false, lacking fair balance, or otherwise misleading if it:

(a) contains a representation or suggestion that a cannabis strain, brand, or product is better, more effective, useful in a broader range of conditions or patients, or safer than other drugs or treatments including other cannabis strains or products, unless the claim has been demonstrated by substantial evidence or substantial clinical data;

(b) contains favorable information or opinions about a medical cannabis product previously regarded as valid but which have been made invalid by contrary and more credible recent information;

(c) uses a quote or paraphrase out of context or without citing conflicting information from the same source, to convey a false or misleading idea;

(d) uses a study on individuals without a qualifying medical condition without disclosing that the subjects were not suffering from a qualifying medical condition;

(e) uses data favorable to a medical cannabis product derived from patients treated with a different product or dosages different from those legal in Utah; or

(f) contains favorable information or conclusions from a study that is inadequate in design, scope, or conduct to furnish significant support for the information or conclusions.

(4) Targeted marketing may not include:

(a) unsubstantiated health claims or other claims that are not supported by substantial evidence or substantial clinical data;

(b) claims that cannabis cures any medical condition; or

(c) content that has a recreational disposition.

(5) A medical cannabis pharmacy may reference a cannabis strain or a medicinal dosage form in targeted marketing.

(6) When posting promotional information about a medical cannabis product for sale online, a medical cannabis pharmacy shall list the total amount of each cannabinoid contained in the product, measured in milligrams.

R66-5-17. Criteria and Process for Issuance of Additional Licenses.

(1) The department may consider the following factors as criteria when determining if additional medical cannabis pharmacy licenses shall be issued pursuant to Subsection 4-41a-1005(1)(d):

(a) high potential for growth in the number of medical cannabis card holders located in one or more regions of the state;

(b) access to medical cannabis home delivery service in the state or in certain regions of the state;

(c) commuting patterns and economic activity in certain regions of the state;

(d) the driving distance for medical cannabis cardholders or potential medical cannabis cardholders residing in certain regions of the state from their home to the nearest medical cannabis pharmacy location; or

(e) the inadequate supply, quality, or variety of medical cannabis in the state or certain regions of the state.

(2) As the department considers one or more factors described in Subsection R68-40-18(1), it shall consult with and consider input from the Utah Department of Health and Human Services, the medical cannabis industry, and the public.

(3) The department's process of consultation and consideration of input shall include meetings with stakeholders and holding of a public hearing during which it will accept public comment.

(4) If the department determines that an additional medical cannabis pharmacy license should be issued, the department shall accept applications for the license in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

R66-5-18. Limited Medical Provider Recommendation Form.

(1) A medical cannabis pharmacy may accept and process a completed "Limited Medical Provider Recommendation for Medical Cannabis" form.

(a) A pharmacy agent or a PMP employed by a medical cannabis pharmacy may perform a form verification.

(b) Only a PMP may make changes or additions to a form after documenting approval of changes or additions that are communicated by an LMP.

(c) An LMP recommendation cannot be entered into the EVS by a PMP or pharmacy agent without a complete DHHS-approved form that is hand-delivered, emailed, or faxed to the medical cannabis pharmacy.

(c) When verifying the validity of the form, a medical cannabis pharmacy shall verify:

(i) the form is complete and no information on the form appears to have been adulterated;

(ii) the suffix of the state-issued professional license number matches specific numbers assigned to the provider's state-issued professional license type;

(iii) there are nine digits in the Drug Enforcement Agency (DEA) license number;

(iv) the clinic name, email address, mailing address, and telephone number appear to be legitimate; and

(v) that an LMP at that clinic completed a form for the patient named in the form.

(2)(a) If the form is missing any part of the verification, a PMP shall investigate any missing or incorrect information.

(b) If a PMP cannot receive verification of the form from the clinic, the form cannot be processed and the PMP shall continue to contact the clinic to seek verification of the information on the form.

(3)(a) The pharmacy shall maintain a record of the pharmacy employee having received or not received verification of a valid form from the clinic.

(b) For hand-delivered and electronically delivered forms, the pharmacy shall upload the form to the patient's EVS account.

(c) The verification of the form shall be recorded in the "Medical Cannabis Pharmacy Use Only" at the bottom of the form or in the patient's EVS profile.

(d) If a PMP corrected or added information on the form upon order of the LMP, a note documenting the change shall be recorded.

(4) If the medical cannabis pharmacy believes a form to be fraudulent, the pharmacy shall notify the DHHS via email within 24 hours of the first receipt of the form.

R66-5-19. Agent Duties and Responsibilities.

(1) Medical cannabis pharmacy employees shall be registered as PMP or a medical cannabis pharmacy agent.

(2) A pharmacy agent may perform the following duties:

(a) assist a prospective cardholder with an application for a medical cannabis card;

(b) assist the cardholder with understanding available products, proper use of a medical device, medical cannabis strains, and methods of consumption or application within the dosing guidelines specified by an RMP or PMP;

(c) verify the status of an individual's medical cannabis card and dosing guidelines in a patient recommendation within the ICS;

(d) enter and retrieve information from the ICS;

(e) authorize entry of a cardholder into the cardholder counseling area;

(f) take a refill order from an RMP;

(g) provide pricing and product information;

(h) process cardholder payment, including the issuance of receipt, refund, credit, and cash;

(i) prepare labeling for a product;

(j) retrieve medical cannabis and medical cannabis devices from inventory;

(k) accept a new order of medical cannabis or a medical cannabis device, orders left on voicemail for a PMP to review;

(l) verbally offer to a cardholder, the opportunity for counseling with a PMP regarding medical cannabis, or a medical cannabis device;

(m) assist with dispensing of product to a cardholder;

(n) screen calls for a PMP;

(o) prepare an inventory of medical cannabis and medical cannabis device;

(p) transport medical cannabis, or medical cannabis device; and

(q) assist with maintaining a safe, clean, and professional environment.

(3) A pharmacy agent may not perform the following duties:

(a) receive dosing guidelines for a patient's recommendation over the phone or in-person;

(c) determine or modify dosing guidelines in a patient's recommendation; or

(d) provide counseling or consultation regarding a patient's medical condition, or medical treatment.

R66-5-20. Agent Application Procedures.

(1) The application procedures established in this section shall govern an application for initial issuance of a pharmacy agent registration card, under Title 4, Chapter, 41a, Cannabis Production Establishments and Pharmacies

(2) Each pharmacy agent card applicant shall apply using forms available from the department.

(3) The department may issue a card to an applicant who submits a complete application if the department determines that the applicant meets the card requirements.

(4) The department shall provide written notice of denial to an applicant who submits a complete application if the department determines that the applicant does not meet the card requirements.

(5) The department shall notify an applicant who submits an incomplete application that their application is closed unless the applicant corrects the deficiency within the time period specified in the notice and otherwise meets card requirements.

(6) The written notice of denial or incomplete application shall be sent to the applicant's last email address shown in the EVS database.

(7)(a) Each applicant shall maintain a current email address with the department.

(b) Notice sent to the last email address on file with the department constitutes legal notice.

R66-5-21. Agent Renewal Application Procedures.

(1) Renewal application procedures established in the rule shall apply to applicants applying for renewal of a pharmacy agent registration card, under Title 4, Chapter, 41a, Cannabis Production Establishments and Pharmacies.

(2) Each card applicant shall apply using renewal application forms available from the department.

(3) The department shall issue a card to an applicant who submits a complete renewal application if the department determines that the applicant meets the card requirements.

(4) The department shall deny an applicant who submits a complete renewal application if the department determines that the applicant does not meet the card requirements.

(5)(a) The department shall notify an applicant who submits an incomplete application.

(b) The notice shall advise the applicant that the renewal application is incomplete and closed unless the applicant corrects the deficiency within the time specified in the notice and otherwise meets card requirements.

(6)(a) The department shall send a renewal notice to each cardholder before the expiration date shown on the cardholder's card.

(b) The notice shall include directions for the cardholder to renew the card via the department's website.

(7) Renewal notices shall be sent by email to the cardholder's last email shown in the EVS database.

(8) A renewal notice shall advise each cardholder that a card will automatically expire on the expiration date and will no longer be valid.

(9)(a) A pharmacy agent shall renew their pharmacy agent registration card with the department within one year of its expiration date.

(b) If an applicant fails to renew an expired card within one year, they will be required to submit a new online registration form.

R66-5-22. Continuing Education Requirements.

The certification standard for initial or renewal registration of a pharmacy agent card will be successful completion of a continuing education course regarding state medical cannabis law and patient privacy and federal health information privacy laws that is offered or approved by the department.

KEY: medical cannabis, medical cannabis pharmacy, marijuana
Date of Last Change: 2024
Authorizing, and Implemented or Interpreted Law: 4-41a-1101(12), 4-41a-1104(4), 4-2-103(1)(i)

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	**R66-6**	**Filing ID: 56344**

Agency Information

1. Department:	Agriculture and Food	
Agency:	Medical Cannabis and Industrial Hemp	
Building:	TSOB South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
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Kelly Pehrson	385-977-2147	kwpehrson@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R66-6. Home Delivery and Courier
3. Purpose of the new rule or reason for the change:
This rule originally existed as Rule R68-41. However, a repeal has been filed on Rule R68-41 so it can be reenacted under a new title specific to medical cannabis and industrial hemp, Title R66.
4. Summary of the new rule or change:
This new rule is substantively the same as Rule R68-41, which is being repealed and simultaneously reenacted as Rule R66-6 under the new Title R66. (EDITOR'S NOTE: The proposed repeal of Rule R68-41 is under ID No. 56343 in this issue, April 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 proposed new rule does not have a fiscal impact to the state because the rule text is not changing between the repeal and the new rule. It is just being repealed to be reenacted under new Rule R66-6.
B) Local governments:
Local governments will not be impacted because they do not participate in the medical cannabis program.
C) Small businesses ("small business" means a business employing 1-49 persons)**:**
This proposed new rule does not have a fiscal impact to small businesses because the rule text is not changing between the repeal and the new rule.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
This proposed new rule does not have a fiscal impact to non-small businesses because the rule text is not changing between the repeal and the new rule.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
This proposed new rule does not have a fiscal impact to other persons because the rule text is not changing between the repeal and the new rule.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**
Compliance costs are not impacted because the substance of the rule is not changing 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

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

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

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

Citation Information

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

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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024

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 W. Buttars, Commissioner	**Date:**	03/07/2024

R66. Agriculture and Food, Medical Cannabis and Industrial Hemp.

R66-6. Home Delivery and Courier.

R66-6-1. Authority and Purpose.

(1) Subsection 4-41a-1202(1) authorizes this rule.

(2) This rule establishes medical cannabis home delivery operating standards, home delivery agent operating standards, courier agent application procedures, courier agent renewal application procedures, and courier agent certification standards.

R66-6-2. Definitions.

(1) "Card" means any type of medical cannabis card or registration card, whichever applies, authorized under Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

(2) "Courier agent" means a medical cannabis courier agent.

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

(4) "DHHS" means the Utah Department of Health and Human Services.

(5) "Electronic Verification System" or "EVS" means the same as the term is defined in Section 26B-4-201.

(6) "Inventory Control System" or "ICS" means the same as the term is defined in Section 4-41a-103.

(7) "Manifest" means the document required under Subsection 4-41a-404(2) to be in the possession of any individual transporting medical cannabis that does not have a valid medical cannabis card.

(8) "Medical cannabis" for the purposes of this rule, means medical cannabis or a medical cannabis device, as the terms are defined in Section 26b-4-201.

(9) "Pharmacy agent" means a medical cannabis pharmacy agent.

(10) "Pharmacy Medical Provider" or "PMP" means the same as the term is defined in Subsection 26B-4-201(45).

(11) "State electronic verification system" means the same as the term is defined in Section 26B-4-202 and Subsection 4-41a-102(44).

R66-6-3. Home Delivery Service -- Operating Standards.

(1) In addition to general operating standards established in Section 4-41a-1203 through Section 4-41a-1205, home delivery medical cannabis pharmacies, pharmacy agents, and couriers shall comply with the operating standards established in this rule.

(2) The following operating standards apply to home or caregiver facility delivery medical cannabis pharmacies and couriers.

(3) Pharmacies and couriers shall:

(a) maintain an updated written operating plan for home delivery service, describing a plan to comply with standards established in this section and meeting the requirements of Subsection 4-41a-1202(14);

(b) ensure accurate record keeping of delivery information in the ICS;

(c) maintain a record of at least five years of the initials or unique identification codes that identify each pharmacy agent or courier agent;

(d) lock medical cannabis that is transported in a fully enclosed box, container, or cage, that is secured inside a delivery vehicle and ensure appropriate storage temperature throughout the delivery process to maintain the integrity of the product;

(e) maintain a current paper or electronic list of any employee who makes deliveries that includes each employee's name, department registration license classification and license number, and registration expiration date;

(f) upon request, provide the department with information regarding any vehicle used for the delivery service; including the vehicle's make, model, color, vehicle identification number, license plate number, insurance number, and Division of Motor Vehicle registration number;

(g) ensure that the manifest is not modified in any way after a pharmacy agent or courier agent departs from a home delivery medical cannabis pharmacy facility with a shipment appearing on the manifest;

(h) ensure that no person other than a pharmacy agent or courier agent is in a delivery vehicle during delivery or during the time medical cannabis is in the vehicle; and

(i) ensure that trip log documentation showing a specific route of delivery exists for a route driven by a pharmacy agent or courier agent on a specific day is immediately available for review by the department, upon request.

(4) When delivering medical cannabis to a medical cannabis cardholder's home or a caregiver facility, a pharmacy agent or courier agent may not:

(a) drop off medical cannabis with anyone other than a medical cannabis cardholder or a caregiver facility;

(b) perform a home delivery before 6 a.m. or after 10 p.m.;

(c) leave medical cannabis unattended in a delivery vehicle for more than one hour;

(d) make changes in dosage or quantity at the request of the medical cannabis cardholder during delivery; or

(e) consume medical cannabis while delivering medical cannabis.

(5) When delivering medical cannabis, a pharmacy agent or courier agent employed by a home delivery medical cannabis pharmacy or courier shall:

(a) wear an identification tag or similar form of identification that clearly identifies them to a medical cannabis cardholder and includes their position; and

(b) provide each cardholder or caregiver facility receiving a shipment with printed material that includes their contact information and hours when a PMP is available for counseling over the phone.

(6) Each pharmacy agent or courier agent shall ensure that vehicles used for home delivery:

(a) do not have any marking or other indication on the exterior that identifies what is being transported;

(b) are maned;

(c) have an active alarm system;

(d) have a global positioning system (GPS) monitoring device that is:

(i) not easily removable;

(ii) attached to the vehicle at any time that the vehicle contains medical cannabis; and

(iii) capable of storing and transmitting GPS data so it can be monitored by the home delivery medical cannabis pharmacy during transport of medical cannabis; and

(e) do not transport medical cannabis beyond the locations identified on a manifest.

(7) The limitation in Subsection R68-41-3(6)(f) does not apply to the transport of medical cannabis from a medical cannabis cardholder to be returned to the home delivery medical cannabis pharmacy.

(8) Vehicles used for home delivery may be subject to inspection by the department at any time.

(9) If medical cannabis goes missing during a home delivery route, the pharmacy agent or courier agent, shall:

(a) notify the home delivery medical cannabis pharmacy's supervising PMP within 24 hours of when the pharmacy agent or courier agent first became aware of the missing product;

(b) provide information regarding the missing product to the department and local law enforcement; and

(c) log the missing products into the ICS.

(10) A courier may not store medical cannabis at its facility. Medical cannabis delivered by the courier must be picked up from a home delivery medical cannabis pharmacy facility and either delivered to the medical cannabis cardholder's residence or returned to the home delivery medical cannabis pharmacy facility.

R66-6-4. Home Delivery Agent -- Operating Standards.

(1) In addition to operating standards established in Section 4-41a-1203 through Section 4-41a-1205 pharmacy and courier agents shall comply with the operating standards established in this rule.

(2) Each pharmacy and courier agent shall:

(a) ensure accurate records of delivery information are documented in the ICS;

(b) ensure that medical cannabis is locked in a fully enclosed box, container, or cage when transported and that appropriate storage temperature is maintained throughout the delivery process;

(c) ensure that the manifest is not modified in any way after they depart from a home delivery medical cannabis pharmacy facility with the shipment appearing on the manifest; and

(d) ensure that no person other than a pharmacy agent or courier agent is in a delivery vehicle during delivery or during the time medical cannabis is in the vehicle.

(3) When delivering medical cannabis to a cardholder's home, a pharmacy agent or courier agent may not:

(a) drop off medical cannabis with anyone other than a medical cannabis cardholder or a caregiver facility employee;

(b) perform a home delivery before 6 a.m. or after 10 p.m.;

(c) leave medical cannabis unattended in a delivery vehicle for more than 60 minutes unless the courier agent or pharmacy agent is staying overnight in the process of conducting a delivery;

(d) make a change in dosage or quantity at the request of the cardholder during a delivery;

(e) consume medical cannabis while delivering medical cannabis; or

(f) transport medical cannabis beyond the locations that appear on the manifest.

(4) When delivering medical cannabis, a pharmacy agent or courier agent shall:

(a) wear an identification tag or similar form of identification that clearly identifies them to a cardholder and includes their position; and

(b) provide each cardholder or facility caregiver with printed material that includes a home delivery medical cannabis pharmacy's contact information and hours for counseling over the phone with a PMP.

(5) If medical cannabis goes missing during a home delivery route, the pharmacy agent or courier agent shall notify the home delivery medical cannabis pharmacy's supervising PMP within 24 hours of when the medical cannabis pharmacy agent first became aware of the missing product.

R66-6-5. Medical Cannabis Courier Agent -- Application Procedures.

(1) The application procedures established in this section shall govern applications for the initial issuance of a courier agent registration card under Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies.

(2) Each card applicant shall apply using forms available in the EVS from the department.

(3) The department may issue a card only if the applicant meets the card requirements established under Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies and department rule.

(4) The department shall provide written notice of denial to an applicant who submits a complete application if the department determines that the applicant does not meet the card requirements.

(5) If the department receives an incomplete application, they shall provide written notice to the applicant indicating that the application is closed unless the applicant corrects the deficiency within the time specified in the notice, and otherwise meets all card requirements.

(6) The department shall send the written notice of denial or incomplete application to the applicant's last email address shown in the Department's EVS database unless the applicant has requested to be notified by regular mail.

(7) Each applicant shall maintain a current email and mailing address with the department. Notice to the last email address on file with the department constitutes legal notice unless the applicant has requested notification by regular mail.

R66-6-6. Medical Cannabis Courier Agent - Renewal Application Procedures.

(1) Renewal application procedures established in this section shall govern applications to renew a courier agent registration card under Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies.

(2) Each card applicant shall apply using renewal application forms available from the department.

(3) The department shall issue a card to an applicant who submits a complete renewal application if the department determines that the applicant meets the card requirements.

(4) The department shall provide written notice of denial to an applicant who submits a complete renewal application if the department determines that the applicant does not meet the card requirements.

(5) If an applicant submits an incomplete application, the department shall provide written notice indicating that the renewal application is closed unless the applicant corrects the deficiency within the time period specified in the notice and otherwise meets all card requirements.

(6) The department shall send a renewal notice to each cardholder at least 30 days before the expiration date shown on the cardholder's card. The notice shall include instructions to renew the card via the department's website and shall be sent to the cardholder's last email in the EVS database unless they have requested notification by regular mail.

(7) Each cardholder shall maintain a current email address and mailing address with the department. Emailing to the last email address furnished to the department constitutes legal notice unless the cardholder requests notification by regular mail.

(8) A courier agent shall renew their courier agent registration card with the department within five days after the registration card's expiration date. Failure to renew an expired card within five days shall result in the applicant having to submit a new application for a courier agent registration card and pay for a new fingerprint background check.

R66-6-7. Medical Cannabis Courier Agent - Continuing Education Requirement.

The department's certification standard for initial and renewal registration of a medical cannabis courier agent card is successful completion of a one-hour continuing education course offered or approved by the department regarding state medical cannabis law, patient privacy and federal health information privacy laws, and other topics.

KEY: medical cannabis, medical cannabis courier agent, medical cannabis home delivery
Date of Last Change: 2024
Authorizing, and Implemented or Interpreted Law: 4-41a-1202

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	**R66-7**	**Filing ID: 56346**

Agency Information

1. Department:	Agriculture and Food
Agency:	Medical Cannabis and Industrial Hemp
Building:	TSOB South Bldg, Floor 2
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO Box 146500
City, state and zip:	Salt Lake City, UT 84114-6500
Contact persons:	

Name:	**Phone:**	**Email:**
Amber Brown	385-245-5222	ambermbrown@utah.gov

Brandon Forsyth	801-710-9945	bforsyth@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov

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

General Information

2. Rule or section catchline:

R66-7. Educational Event and Educational Material Rules

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

This rule originally existed as Rule R68-34.

However, a repeal has been filed on Rule R68-34 so it can be reenacted under a new title specific to medical cannabis and industrial hemp, Title R66.

4. Summary of the new rule or change:

This new rule is substantively the same as Rule R68-34, which is being repealed and simultaneously reenacted as Rule R66-7 under the new Title R66.

(EDITOR'S NOTE: The proposed repeal of Rule R68-34 is under ID No. 56345 in this issue, April 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 proposed new rule does not have a fiscal impact to the state because the rule text is not changing between the repeal and the new rule.

It is just being repealed to be reenacted under new Rule R66-7.

B) Local governments:

Local governments will not be impacted because they do not participate in the medical cannabis program.

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

This proposed new rule does not have a fiscal impact to small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed new rule does not have a fiscal impact to non-small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed new rule does not have a fiscal impact to other persons because the rule text is not changing between the repeal and the new rule.

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

Compliance costs are not impacted because the substance of the rule is not changing 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

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

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

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024
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 W. Buttars, Commissioner	**Date:**	03/07/2024

R66. Agriculture and Food, Medical Cannabis and Industrial Hemp.

R66-7. Educational Event and Educational Material Rules.

R66-7-1. Authority and Purpose.

Pursuant to Subsections 4-41a-403(5)(a) through 4-41a-403(5)(c), this rule establishes the elements and restrictions on educational events a cannabis production establishment may hold for the public or medical providers, and provides guidelines for educational material shared at the events.

R66-7-2. Definitions.

(1) "Educational event" means an event held by a cannabis production establishment or presented by a cannabis production establishment agent for providing education about medical cannabis for the benefit of the public or medical providers.

(2) "Educational material" means content distributed by a medical cannabis production establishment, cannabis production establishment agent, medical cannabis pharmacy agent, or qualified medical provider, whether in-person or online. Educational material includes:

(a) live or recorded content of an educational event;

(b) printed material such as books, pamphlets, flyers, or business cards; and

(c) online content.

R66-7-3. Educational Material Standards.

(1) A presenter seeking to dispel false or misleading information about medical cannabis may include the false or misleading information in educational material if they also include a true statement regarding lawful cannabis use in Utah that dispels the false or misleading information.

(2) Educational material shall include information relating to side effects, consequences, contraindications, and effectiveness of medical cannabis, and ensure that information relating to effectiveness is not presented in greater scope, depth, or detail than information relating to side effects, consequences, and contraindications.

(3) Educational material standards assessed by the department include factors such as typography, layout, contrast, headlines, paragraphing, white space, and other techniques used to achieve emphasis.

(4) Educational material is false or otherwise misleading if it:

(a) contains a representation that a cannabis strain, brand, or product is more effective, useful in a broader range of conditions or patients, or safer than another drug or treatment, including other cannabis strains or product, unless the claim has been demonstrated by substantial evidence or substantial clinical data;

(b) uses a quote or paraphrases information out of context or without citing conflicting information from the same source to convey a false or misleading idea;

(c) uses a study on individuals without a qualifying medical condition without disclosing that the subjects were not suffering from a qualifying medical condition;

(d) uses data to present a cannabis product favorably that is derived from patients treated with a different product or with dosages different from those legal in Utah;

(e) contains favorable information or conclusions from a study that is inadequate in design, scope, or conduct to furnish significant support for the information or conclusions;

(f) fails to disclose the source of the material with sufficient detail to enable participants to locate the material independently; or

(g) fails to disclose that a study has not been subject to the peer review process.

(5) Educational material may not include:

(a) an unsubstantiated health claim or claim that is not supported by substantial evidence or substantial clinical data;

(b) information that encourages the use of cannabis for a condition other than a qualifying medical condition;

(c) unprofessional terms, slang, phrasing, or verbiage associated with the recreational use of cannabis unless those terms are necessary to clarify or provide information valuable to the educational event participants, such as law enforcement officers, in identifying and educating individuals on common terms used by patients and other individuals to refer to cannabis and are presented in that context;

(d) any image bearing resemblance to a cartoon character or fictional character whose target audience is children or minors;

(e) content, symbol, or imagery that the cannabis production establishment knows or should know appeals to children;

(f) imagery featuring a person using the product in any way;

(g) any statement that encourages, promotes, or otherwise creates an impression that use of cannabis is legal or acceptable to use in a manner except as specifically authorized under Title 26, Chapter 61a, Utah Medical Cannabis Act;

(h) any statement that recreational use of cannabis has any potential health or therapeutic benefits, or that recreational use or possession is legal in Utah or under federal law;

(i) any recreationally oriented subject;

(j) any content that might be considered dismissive of medical cannabis as approved to treat a qualifying medical condition;

(k) content that promotes consumption over the recommended dosage;

(l) content targeting out-of-state customers;

(m) any statement that falsely disparages a competitor's product; or

(n) any statement, design, or representation, picture or illustration that is obscene or indecent.

R66-7-4. Educational Event Standards.

(1) Any attendee at an educational event held by a cannabis production establishment pursuant to Section 4-41a-403 shall be at least 21 years of age.

(2) A presenter may address issues or questions posed during an educational event that clarify or provide educational material on the limits of cannabis use under Title 4, Chapter 41a, Cannabis Production Establishments or Title 26, Chapter 61a, Utah Medical Cannabis Act.

R66-7-5. Department Review.

(1) Any educational event that falls under this rule must be disclosed to the department no less than ten business days before the educational event.

(2) A department employee may attend an educational event to verify compliance with state law and this rule.

(3) The department may require that a cannabis production establishment provide copies of any educational material scheduled to be distributed at an educational event to:

(a) verify that documents and materials are in compliance with Section 4-41a-403 and do not conflict with Title 26, Chapter 61a, Utah Medical Cannabis Act;

(b) confirm the information presented is correct; and

(c) pursuant to Subsection 4-41a-403(1), confirm that advertising is not included.

(4) The department may require the cannabis production facility or presenter at an educational event to change the presentation and materials to comply with state laws and this rule.

KEY: cannabis, educational event
Date of Last Change: 2024
Authorizing, and Implemented or Interpreted Law: 4-41a-403(5)(a) through 4-41a-403(5)(c)

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	**R66-8**	**Filing ID: 56348**

Agency Information

1. Department:	Agriculture and Food
Agency:	Medical Cannabis and Industrial Hemp
Building:	TSOB South Bldg, Floor 2
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO Box 146500
City, state and zip:	Salt Lake City, UT 84114-6500

Contact persons:

Name:	Phone:	Email:
Amber Brown	385-245-5222	Ambermbrown@utah.gov
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Kelly Pehrson	385-977-2147	kwpehrson@utah.gov

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

General Information

2. Rule or section catchline:

R66-8. Academic Medical Cannabis Research

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

This rule originally existed as Rule R68-35.

However, a repeal has been filed on Rule R68-35 so it can be reenacted under a new title specific to medical cannabis and industrial hemp, Title R66.

4. Summary of the new rule or change:

This new rule is substantively the same as Rule R68-35, which is being repealed and simultaneously reenacted as Rule R66-8 under the new Title R66.

(EDITOR'S NOTE: The proposed repeal of Rule R68-35 is under ID No. 56347 in this issue, April 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 proposed new rule does not have a fiscal impact to the state because the rule text is not changing between the repeal and the new rule.

It is just being repealed to be reenacted under new Rule R66-8.

B) Local governments:

Local governments will not be impacted because they do not participate in the medical cannabis program.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**
This proposed new rule does not have a fiscal impact to small businesses because the rule text is not changing between the repeal and the new rule.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
This proposed new rule does not have a fiscal impact to non-small businesses because the rule text is not changing between the repeal and the new rule.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
This proposed new rule does not have a fiscal impact to other persons because the rule text is not changing between the repeal and the new rule.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**
Compliance costs are not impacted because the substance of the rule is not changing 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

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

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

Citation Information

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

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024
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 W. Buttars, Commissioner	**Date:**	03/07/2024

R66. Agriculture and Food, Medical Cannabis and Industrial Hemp.

R66-8. Academic Medical Cannabis Research.

R66-8-1. Authority and Purpose.

Pursuant to Section 4-41a-901, this rule establishes the process by which a research university may obtain, cultivate, process, and possess cannabis for academic medical cannabis research.

R66-8-2. Definitions.

(1) "Applicant" means a person from a research university who applies for a research license from the Utah Department of Agriculture and Food.

(2) "Batch" means a quantity of:

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

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

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

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

(4) "Cannabis concentrate" means:

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

(b) any amount of a natural, derivative, or synthetic cannabinoid in its purified state.

(5) "Cannabis Product" means a product that:

(a) is intended for human use; and

(b) contains cannabis or tetrahydrocannabinol.

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

(7) "License" means a license issued by the Utah Department of Agriculture and Food to a research university granting authorization to obtain cannabis from a cannabis production establishment or another research licensee to cultivate, process, and possess cannabis for research purposes.

(8) "Licensee" means a person authorized by the department to obtain, cultivate, process, and possess cannabis for research.

(9) "Lot" means the quantity of:

(a) flower produced on a particular date and time, following clean up until the next clean up during which the same materials are used; or

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

(10) "Research" means academic medical cannabis research or the study of cannabis for developing useful processes, information, and products.

(11) "Research Plan" means a plan stating the objective and purpose of the proposed academic medical cannabis research including each method and procedure for carrying out the research.

(12) "Research Location" means the area of a research university where academic medical cannabis research takes place.

(13) "Security Plan" means a plan to control and limit unauthorized access to cannabis and methods used to prevent diversion of cannabis.

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

R66-8-3. Research License Requirements.

(1) No applicant may possess any cannabis until the applicant is notified that their research license has been approved by the department.

(2) An applicant shall be 21 years of age or older.

(3) An applicant shall be employed by a research university.

(4) The department may not issue a license to an applicant if they have been convicted of a drug-related felony within the last ten years.

(5) An applicant shall submit to the department:

(a) the name, email address, and telephone number of the principal investigator responsible for the:

(i) procurement of cannabis;

(ii) use and secure storage of the cannabis; and

(iii) the management of the research;

(b) the institution's name and address;

(c) the name of each individual with access to cannabis material;

(d) a research plan;

(e) the research location;

(f) the name and address of each cannabis production establishment or licensee from which the applicant intends to obtain cannabis; and

(g) a security plan.

(6) Each applicant for a license shall submit to the department, at the time of application, from each individual who will handle cannabis as part of the research, a nationwide criminal history from the FBI completed within three months of the application.

(7) An applicant shall submit a research license fee as approved by the Legislature in the fee schedule.

(8) Before issuing a license the department shall inspect the proposed research location to determine if the applicant complies with state law and this rule.

(9) An incomplete or incorrect application will be rejected and not considered by the department.

R66-8-4. Research Plan Requirements.

(1) An applicant is responsible for ensuring that no information is included in a research plan that may compromise the applicant's ability to secure patent, trade secret, or other intellectual property protection.

(2) Each research plan shall be submitted by a person who has the legal authority to represent the research university.

(3) Each research plan shall be submitted to the department in a legible PDF format.

(4) Each individual involved in research shall be considered an agent of the licensee.

(5) A research plan is limited to 12 pages, not including references or citations, and should include the following information, in addition to the requirements of Section R68-35-2:

(a) the purpose and goal of the proposed research;

(b) each key milestone and timeline for the research;

(c) background and preliminary studies, if applicable;

(d) the amount and type of cannabis to be obtained for the research project including the justification with respect to each milestone task;

(e) the anticipated cost of the proposed research project and funding source;

(f) personnel that will be involved in the project, including each name and role;

(g) facilities, equipment, and other resources required and available for conducting the proposed research project;

(h) letters of support, limited to two pages each, confirming the commitment of time and resources from external personnel or organizations if external personnel or organizations will participate in research activities under an approved research project; and

(i) any additional information requested by the department.

(6) Each license will be issued by the Cannabis Production Establishment Licensing Board.

R66-8-5. Inventory and Recordkeeping Requirements.

(1) A licensee shall maintain an organized filing system so cannabis records can be easily obtained when requested by the department.

(2) Each record related to research shall be maintained by the licensee and available for inspection by the department for a minimum of two years following the completion of the project.

(3) The licensee shall maintain a current inventory and record of the disposition of materials for cannabis, cannabis plant product, cannabis concentrate, and cannabis product on hand.

(4) A licensee shall take necessary measures to avoid the diversion of cannabis, cannabis concentrate, or cannabis product.

R66-8-6. Research Limitations.

(1) A licensee is restricted to only research specified in an approved research plan.

(2) An amendment to an approved research requires the resubmission and approval of the documents listed in Section R68-35-4 and the reason for the amendment.

R66-8-7. Transportation.

(1) A printed transport manifest shall accompany each transport of cannabis.

(2) The manifest shall contain the following information:

(a) the licensee's address and license number of the departure location;

(b) the physical address and license number of the receiving location;

(c) the strain name, quantity by weight, and unique identification number from the inventory control system of cannabis to be transported;

(d) the date and time of departure;

(e) the estimated date and time of arrival; and

(f) the name and signature of each licensee or agent accompanying the cannabis.

(3) The transport manifest may not be voided or changed after departure.

(4) A copy of the transport manifest shall be given to the receiving location.

(5) The receiving location shall ensure that the cannabis received is as described in the transport manifest and shall record the amount received for each strain.

(6) The receiving location shall document at time of receipt any difference between the quantity specified in the transport manifest and the quantity received and recorded. Any difference shall be immediately reported to the department.

(7) During transportation, cannabis shall be:

(a) shielded from the public view;

(b) secured; and

(c) temperature controlled if perishable.

(8) A licensee shall contact the department within 24 hours if a vehicle transporting cannabis is involved in an accident that involves product loss.

(9) A licensee or an agent of a licensee shall occupy each transporting vehicle. No other individual may occupy a transporting vehicle.

R66-8-8. Inspection and Testing.

(1) A licensee shall provide the department with written consent allowing a representative of the department or local law enforcement to enter any premises where a licensee possesses or stores cannabis for:

(a) conducting a physical inspection; or

(b) ensuring compliance with the requirements of state law and this rule.

(2) Cultivation or processing based research that does not involve testing on any human or animal subject, is not subject to the testing requirements of Section R68-29-3.

R66-8-9. Minimum Storage and Handling Requirements.

(1) Each storage area shall be maintained in a clean and orderly condition.

(2) A licensee shall store cannabis, cannabis concentrate, or cannabis product in a manner so as to prevent diversion, theft, or loss.

(3) A licensee shall make cannabis, cannabis concentrate, and cannabis product accessible only to the minimum number of specifically authorized agents of the licensee essential for efficient operation and shall return the cannabis, cannabis concentrate, or cannabis product to its secure location immediately after completion of the process or at the end of the scheduled business day.

(4) If a research process cannot be completed at the end of a working day, a licensee shall securely lock the processing area or tanks, vessels, bins, or bulk containers containing cannabis inside an area or room that affords adequate security.

R66-8-10. Cannabis Waste Disposal.

(1) A licensee shall dispose of cannabis, cannabis concentrate, or cannabis product if research is discontinued for any reason.

(2) Solid and liquid waste generated during research shall be stored, managed, and disposed of in accordance with applicable state law and rules under Title R68.

(3) Wastewater shall be disposed of in compliance with applicable state law and rules under Title R68.

(4) Cannabis waste shall be made unusable before leaving the research location.

(5) Cannabis waste, that is not designated as hazardous, shall be made unusable by grinding and incorporating the cannabis waste with other ground materials so the resulting mixture is at least 50% non-cannabis waste by volume or other methods approved by the department before implementation.

(6) Material used to grind and incorporate with cannabis fall into two categories:

(a) compostable; or

(b) non-compostable.

(7) Compostable waste is cannabis waste to be disposed of as compost or in another organic waste method mixed with:

(a) food waste;

(b) yard waste; or

(c) vegetable-based grease or oils.

(8) Non-compostable waste is cannabis waste to be disposed of in a landfill or another disposal method, such as incineration, mixed with:

(a) paper waste;

(b) cardboard waste;

(c) plastic waste; or

(d) soil.

R66-8-11. Security Plan.

A licensee's security plan shall conform to the following requirements.

(1) A licensee shall provide effective controls and procedures to guard against theft and diversion of cannabis.

(2) A licensee shall store cannabis in a securely locked, substantially constructed cabinet.

(3) a licensee may not employ, as an agent or employee who has access to cannabis, any person who has been convicted of a drug-related felony in the last 10 years or is not at least 21 years of age.

(4) A licensee shall notify the department of any theft or significant loss of any cannabis within 24 hours from the discovery of the loss or theft.

R66-8-12. Renewal.

(1) A licensee shall resubmit each document required in Sections R68-35-3 and R68-35-4, with updated information, before December 31st of each year including a report detailing the progress of the research.

(2) The department may deny a renewal for incomplete documentation.

(3) The department may deny renewal for any licensee that has violated any portion of this rule or state law.

R66-8-13. Violations.

(1) It is a violation for a licensee to store or process cannabis, cannabis concentrate, or cannabis product on a site not approved by the department as part of the license.

(2) It is a violation for a licensee to process cannabis, cannabis concentrate, or cannabis product from a source that is not licensed by the department.

(3) A licensee's research for the U.S. Drug Enforcement Administration (DEA) or another law enforcement agency is exempt from Subsection R68-35-13(1) or R68-35-13(2).

(4) A licensee shall maintain each requirement of their security plan and may not allow unsupervised public access to an area where cannabis, cannabis concentrate, or cannabis product is stored or processed.

(5) A licensee may not deny an official of the department access for sampling or inspection purposes.

(6) It is a violation of this rule to handle or possess cannabis without a license from the department.

(7) It is a violation for a licensee to employ a person under the age of 21 in the processing or handling of cannabis or a cannabis product.

(8) It is a violation to fail to keep a record required by this rule.

(9) It is a violation to allow an employee that has been convicted of a drug-related felony in the last ten years access to cannabis or cannabis product.

(10) It is a violation to operate outside of the scope of the research project approved under the license.

(11) It is a violation to make changes to a research plan or research location without prior approval from the department.

R66-8-14. Violation Categories.

(1) Public Safety Violations: Each person is fined $3,000-$5,000 per violation. This category is for violations that present a direct threat to public health or safety including:

(a) cannabis sold to an unlicensed source;

(b) cannabis purchased from an unlicensed source;

(c) refusal to allow inspection;

(d) unauthorized personnel on the premises;

(e) permitting criminal conduct on the premises; or

(f) engaging in or permitting a violation of the Title 4, Chapter 41a, Cannabis Production Establishments, that amounts to a public safety violation as described in this subsection.

(2) Regulatory Violations: Each person is fined $1,000-$5,000 per violation. This category is for violations involving this rule and other applicable state rules under Title R68 including:

(a) failure to follow approved security plan;

(b) failure to keep and maintain records;

(c) failure to follow transportation requirements;

(d) failure to follow the waste and disposal requirements; or

(e) engaging in or permitting a violation of Title 4, Chapter 41a, Cannabis Production Establishments. this rule, or other applicable state rules under Title R68 that amounts to a regulatory violation as described in this subsection.

(3) Licensing Violations: Each person is fined $500 - $5,000 per violation. This category is for violations involving research license requirements including:

(a) an unauthorized change to the research plan;

(b) failure to notify the department of changes to the research plan;

(c) engaging in or permitting a violation of this rule or Title 4, Chapter 41a, Cannabis Production Establishments that amounts to a licensing violation as described in this subsection; or

(d) failure to respond to a violation.

(4) The department shall calculate penalties based on the level of violation and the adverse effect or potential adverse effect at the time of the incident giving rise to the violation.

KEY: cannabis, research
Date of Last Change: 2024
Authorizing, and Implemented or Interpreted Law: 4-41a-901

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	**R66-9**	**Filing ID: 56350**

Agency Information

1. Department:	Agriculture and Food	
Agency:	Medical Cannabis and Industrial Hemp	
Building:	TSOB South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	**Phone:**	**Email:**
Amber Brown	385-245-5222	ambermbrown@utah.gov
Brandon Forsyth	801-710-9945	bforsyth@utah.gov

Kelly Pehrson	385-977-2147	kwpehrson@utah.gov

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

General Information

2. Rule or section catchline:

R66-9. Cannabis Licensing Process

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

This rule originally existed as Rule R68-38.

However, a repeal has been filed on Rule R68-38 so it can be reenacted under a new title specific to medical cannabis and industrial hemp, Title R66.

4. Summary of the new rule or change:

This new rule is substantively the same as Rule R68-38, which is being repealed and simultaneously reenacted as Rule R66-9 under the new Title R66.

(EDITOR'S NOTE: The proposed repeal of Rule R68-38 is under ID No. 56349 in this issue, April 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 proposed new rule does not have a fiscal impact to the state because the rule text is not changing between the repeal and the new rule.

It is just being repealed to be reenacted under new Rule R66-9.

B) Local governments:

Local governments will not be impacted because they do not participate in the medical cannabis program.

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

This proposed new rule does not have a fiscal impact to small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed new rule does not have a fiscal impact to non-small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed new rule does not have a fiscal impact to other persons because the rule text is not changing between the repeal and the new rule.

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

Compliance costs are not impacted because the substance of the rule is not changing 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

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

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

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

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024
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 W. Buttars, Commissioner	**Date:**	03/07/2024

R66. Agriculture and Food, Medical Cannabis and Industrial Hemp.
R66-9. Cannabis Licensing Process.
R66-9-1. Authority and Purpose.

Pursuant to Subsection 4-41a-201(2)(a)(ii), this rule establishes the process for issuing a cannabis production establishment license.

R66-9-2. Definitions.

(1) "Cannabis cultivation facility" means a person that:
(a) possesses cannabis;
(b) grows or intends to grow cannabis; and
(c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis processing facility, or a medical cannabis research licensee.
(2) "Cannabis processing facility" means a person that:
(a) acquires or intends to acquire cannabis from a cannabis production establishment;
(b) possesses cannabis with the intent to manufacture a cannabis product;
(c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and
(d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.
(3) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.
(4) "Cannabis Production Establishment Licensing Advisory Board" or "Board" means the board established under Section 4-41a-201.1.
(5) "Department" means the Utah Department of Agriculture and Food.
(6) "Independent cannabis testing laboratory" means a person that:
(a) conducts a chemical or other analysis of cannabis or cannabis product; or
(b) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

R66-9-3. Cannabis Production Establishment Licensing.

(1) The Department will solicit applications for cannabis cultivation facility licenses if the conditions in Subsection 4-41a-205(2)(a) or (b) are met.
(2) A licensed cannabis cultivation facility may not be awarded a second cannabis cultivation facility license.
(3) Pursuant to Section 4-41a-201, the Board will not accept a license application unless it is complete. An incomplete application will be returned to the applicant.
(4) If there are more qualified applicants than available licenses, the department will evaluate the applicants pursuant to Subsection 4-41a-205(3).
(5) The following conditions shall be met before the Board will consider a license application:
(a) a complete application including documents and supplemental materials on the department's application checklist has been submitted;
(b) a department official has inspected the premises; and
(c) a department official has conducted an inspection as described in Section R68-38-4.
(6) The department shall forward to the Board the information and recommendation to aid in the license determination.
(7) The Board will follow the process outlined in Subsection 4-41a-201.1(6) in considering the application.

R66-9-4. Department Review.

(1) The department's inspection shall:
(a) verify required documents and supplemental materials have been submitted with the application;
(b) confirm the information in the application is correct;
(c) conduct the criminal background check required in Section 4-41a-202; and
(d) confirm that operating and business plans comply with state laws and administrative rules.
(2) The department may require additional information from an applicant.
(3) The department shall submit the cannabis processing facility or independent cannabis testing laboratory application to the Board with information within 30 days of receiving a completed cannabis processing facility or independent cannabis testing laboratory application.
(4) Consistent with Subsection R68-38-3(1), the department shall submit a cannabis cultivation facility application to the Board when the department finds a need based on market needs and available licenses.

R66-9-5. Board Review-Licenses with Limited Availability.

(1) If the Department solicits applications for a limited number of cannabis production establishment licenses, complete applications shall be scored by the Board after the requirements of Subsection R68-38-3(5) are met.

(2) Licenses shall be issued by the Board according to those applicants with the highest score depending on how many licenses are available.

(3) Board review in these circumstances shall be a blind process and with each name removed from each document that is provided to the Board for consideration.

(4) The Board may consider the following factors in determining whether to grant cannabis production establishment licenses:

(a) the applicant's experience in the medical cannabis industry;

(b) the applicant's ability to be compliant within their operating plan;

(c) the applicants positive community involvement, if applicable;

(d) the applicant's anticipated pricing structure;

(e) the timeline under which each phase of the applicant's business will be operational; and

(f) other factors determined by the Department or the Board.

(5) Board meetings may only be closed if the Board is discussing security interests. All votes shall be taken in an open meeting.

(6) If an applicant's initial score is changed based on Board discussion, the reason for the change shall be documented.

R66-9-6. Board Review-License Renewals.

(1) The following conditions shall be met before the Board will approve a renewal license application for a cannabis production establishment:

(a) a complete application including documents and supplemental materials on the department's application checklist has been submitted;

(b) the department has confirmed that the cannabis production establishment has been sufficiently compliant with state laws and administrative rules during the term of their license, pursuant to Chapter 4-41a Part 8; and

(c) for cannabis cultivation facilities, the department has confirmed that production has met or exceeded the amounts that were included in the previous year's operating plan.

(2) In approving a renewal license application for a cannabis production establishment, the Board may consider:

(a) information from the department regarding any issues that have arisen during the license term related to product quality; and

(b) any verified customer complaints.

R66-9-7. Public Hearing.

(1) The Board shall make licensing determination during a public hearing where the application was considered.

(2) The Board shall allow prospective applicants to make a presentation at the public hearing in which their application is considered.

(3) The Board shall notify the prospective applicant a minimum of ten business days in advance of the public hearing where their application is being considered.

(4) The Board may limit the time available for presentations by the applicants.

R66-9-8. Cannabis Production Establishment Licensing Advisory Board Electronic Meetings.

The following provisions govern any meeting of the Board.

(1) Notice of the meeting shall specify the anchor location where the members of the Board not participating electronically or by telephone will be meeting and where interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

(2) Notice of the meeting and the agenda shall be posted at the anchor location. Written or electronic notice shall also be posted on the Public Notice Website. These notices shall be provided at least 24 hours before the meetings.

(3) Notice of the possibility of an electronic meeting shall be given to the Board members at least 24 hours before the meeting. The notice shall describe how a member may participate in the meeting electronically or by telephone.

(4) When notice is given of the possibility of a member appearing electronically or by telephone, any member may do so and shall be counted as present for purposes of a quorum and may fully participate and vote on any matter coming before the Board.

(5) At the commencement of the meeting, or at such time as any member initially appears electronically or by telephone, the chair shall identify for the record those who are appearing by telephone or electronically.

(6) Votes by members of the Board who are not at the physical location of the meeting shall be confirmed by the chair.

(7) The anchor location, unless otherwise designated in the notice, shall be at the offices of the Department of Agriculture and Food.

(a) The anchor location is the physical location from which the electronic meeting originates or from which the participants are connected.

(b) The anchor location shall have space and facilities so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

KEY: cannabis, cannabis production, licensing, Cannabis Production Establishment Licensing Advisory Board
Date of Last Change: 2024
Authorizing, and Implemented or Interpreted Law: 4-2-103; 4-41a-201(2)(a)(ii)

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	**R66-30**	**Filing ID: 56352**

Agency Information

1. Department:	Agriculture and Food
Agency:	Medical Cannabis and Industrial Hemp
Building:	TSOB South Bldg, Floor 2
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84114

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

Contact persons:

Name:	Phone:	Email:
Amber Brown	385-245-5222	ambermbrown@utah.gov
Brandon Forsyth	801-710-9945	bforsyth@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov

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

General Information

2. Rule or section catchline:

R66-30. Industrial Hemp Program - Cannabinoid Product Processors

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

This rule originally existed as Rule R68-25.

However, a repeal has been filed on Rule R68-25 so it can be reenacted under a new title specific to medical cannabis and industrial hemp, Title R66.

4. Summary of the new rule or change:

This new rule is substantively the same as Rule R68-25, which is being repealed and simultaneously reenacted as Rule R66-30 under the new Title R66.

(EDITOR'S NOTE: The proposed repeal of Rule R68-25 is under ID No. 56351 in this issue, April 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 proposed new rule does not have a fiscal impact to the state because the rule text is not changing between the repeal and the new rule.

It is just being repealed to be reenacted under new Rule R66-30.

B) Local governments:

Local governments will not be impacted because they do not participate in the medical cannabis program.

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

This proposed new rule does not have a fiscal impact to small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed new rule does not have a fiscal impact to non-small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed new rule does not have a fiscal impact to other persons because the rule text is not changing between the repeal and the new rule.

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

Compliance costs are not impacted because the substance of the rule is not changing 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

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

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

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

Citation Information

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

Incorporations by Reference Information

7. Incorporations by Reference:	
A) This rule adds, updates, or removes the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	21 CFR 111, 2007 version, Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements
Publisher	US Government
Issue Date	2007

B) This rule adds, updates, or removes the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	21 CFR 507, 2015 version, Current Good Manufacturing Practice, Hazard analysis, and Risk-Based Preventive Controls for Food for Animals
Publisher	US Government
Issue Date	2015

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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024
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 W. Buttars, Commissioner	**Date:**	03/07/2024

R66. Agriculture and Food, Medical Cannabis and Industrial Hemp.

R66-30. Industrial Hemp Program - Cannabinoid Product Processors.

R66-30-1. Authority and Purpose.

Pursuant to Subsection 4-41-103(4), this rule establishes the standards, practices, procedures, and requirements for participation in the Utah Industrial Hemp Program for the processing and handling of cannabinoid products.

R66-30-2. Definitions.

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

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

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

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

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

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

(4) "Cannabinoid" means any:

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

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

(5) "Cannabinoid concentrate" means:

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

(b) any amount of a natural, derivative, or synthetic cannabinoid in the synthetic cannabinoid's purified state.

(6) "Cannabinoid product" means a product that:

(a) contains one or more cannabinoids;

(b) contains less than the cannabinoid product THC level by dry weight;

(c) contains a combined amount of total THC and any THC analog that does not exceed 10% of the total cannabinoid content; and

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

(i) 5 milligrams per serving; and

(ii) 150 milligrams per package.

(7) "Cannabinoid product THC level" means a combined concentration of total THC and any THC analog of less than 0.3% on a dry weight basis if laboratory testing confirms a result within a

measurement of uncertainty that includes the combined concentration of 0.3%.

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

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

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

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

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

(13) "Key participant" means any of the following:

(a) a licensee;

(b) an operations manager;

(c) a site manager; or

(d) an employee who has access to any industrial hemp material with a THC concentration above 0 .3%.

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

(15) "Processing" means any action taken to prepare industrial hemp, or material derived from industrial hemp, for market.

(16) "Processor" means a person licensed by the department to process industrial hemp or a material derived from industrial hemp.

(17) "Manufacturing" means storing, preparing, packaging, or labeling of industrial hemp, industrial hemp material, or cannabinoid products.

(18) "Non-compliant material" means:

(a) a hemp plant or plant material that does not comply with this rule, including a cannabis plant with a concentration of 0.3% tetrahydrocannabinol or greater by dry weight; and

(b) a cannabinoid product, chemical, or compound with a concentration that exceeds the cannabinoid product THC level.

(19) "Raw plant material" or "Raw concentrate" means industrial hemp plant material or concentrate that is not in final product form.

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

(21) "Third-party laboratory" means a laboratory that has no direct interest in a grower or processor of industrial hemp or cannabinoid products that is capable of performing mandated testing utilizing validated methods.

R66-30-3. Cannabinoid Product Processor Licenses.

(1) The department shall issue the following cannabinoid product processor licenses:

(a) a Tier One license, which allows a licensee to receive, store, extract, transport, and sell industrial hemp material and manufacture finished cannabinoid product;

(b) a Tier Two license, which allows a licensee to receive raw plant material and extract it into raw concentrate to store, sell, or transport;

(c) a Tier Three license, which allows a licensee to receive bulk cannabinoid product and store, package, and label finished cannabinoid product; and

(d) a Tier Four license, which allows a licensee to receive, store, transport, or sell raw concentrate, raw plant material, or sell finished cannabinoid product to a retailer, and perform minimal processing for storage only.

(2) A Tier One processor may accept raw concentrate with greater than 0.3% THC concentration from another Tier One processor or a Tier Two processor.

R66-30-4. Application Requirements.

(1) The applicant shall be a minimum of 18 years old.

(2) The applicant is not eligible to receive a license if they have been convicted of a drug-related felony or its equivalent.

(3) An applicant seeking an industrial hemp processing license shall submit the following to the department:

(a) a complete application form provided by the department;

(b) a physical description of the processing facility;

(c) a plan review of the building, facilities, and equipment;

(d) a street address for each building or site where industrial hemp or cannabinoid products will be processed, handled, or stored;

(e) the planned source of industrial hemp material; and

(f) a statement of the intended end use or disposal for each part of the industrial hemp plant and hemp material.

(4) An applicant and any key participants shall submit a nationwide criminal history from the FBI completed within three months of their application.

(5) The applicant shall submit a fee as approved by the Legislature in the fee schedule.

(6) The department shall deny any applicant who does not submit the required information.

(7) Each applicant for a Tier one, Tier Two, or Tier Three license shall be required to register as a food establishment under Section 4-5-301 pursuant to the requirements of Section R68-25-7.

R66-30-5. Processing Facility Restrictions.

(1) A licensee may not process or store raw plant material or raw concentrate from industrial hemp in any structure that is used for residential purposes.

(2) A licensee may not process or store industrial hemp within 1,000 feet of a community location.

(3) A licensee may not process or handle industrial hemp or hemp material from any person who is not licensed by the department or the United States Department of Agriculture (USDA) or from a person outside the state who is not authorized by the laws of that state.

(4) A licensee may not permit a person under the age of 18 to access industrial hemp or cannabinoid products.

(5) A licensee shall submit a nationwide criminal history from the FBI to the department for each employee with access to material which contains, or may contain, over 0.3% THC within the first month of employment.

(6) The licensee shall notify the department if a key participant separates from the licensee within two weeks following the separation.

R66-30-6. Extraction Methods.

(1) In addition to the requirements of Section R68-25-4, an applicant seeking to engage in the extraction of cannabinoid concentrate from industrial hemp shall submit to the department a detailed description of the proposed extraction method.

(2) The applicant shall describe the proposed process for the removal of any solvents added during the extraction process, if applicable.

(3) The applicant shall describe the safety measures proposed to protect the public and employees from dangers associated with extraction methods.

(4) The department may deny a license for methods that pose a significant risk to public health and safety.

(5) Each licensee shall adhere to the following extraction guidelines:

(a) ensure hydrocarbons n-butane, isobutane, propane, or heptane are of at least 99% purity;

(b) use a professional grade closed loop extraction system designed to recover the solvents, work in an environment with proper ventilation, and control each source of ignition where a flammable atmosphere is or may be present;

(c) ensure that any carbon dioxide (CO_2) gas extraction system uses a professional grade closed loop CO_2 gas extraction system where each vessel is rated to a minimum of six hundred pounds per square inch and CO_2 shall be at least 99% purity;

(d) ensure that closed loop hydrocarbon, alcohol, or CO_2 extraction systems are commercially manufactured and bear a permanently affixed and visible serial number; and

(e) upon request, provide the department with documentation showing that the system is:

(i) safe for its intended use; and

(ii) commercially manufactured.

(6) The applicant shall state whether they will be using derivative or synthetic cannabinoids and how they will produce or procure them.

R66-30-7. Processing Practices.

(1) The department incorporates by reference 21 CFR 111, 2007 version, Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements for a licensee engaged in processing a cannabinoid product intended for human consumption.

(2) The department incorporates by reference 21 CFR 507, 2015 version, Current Good Manufacturing Practice, Hazard analysis, and Risk-Based Preventive Controls for Food for Animals for a licensee engaged in processing cannabinoid products for animal consumption.

(3) A licensee that manufactures cannabinoid products for human consumption shall be registered with the Division of Regulatory Services within the department.

(4) A licensee shall use a standardized scale that is registered with the department when industrial hemp or cannabinoid products are:

(a) packaged for sale by weight; or

(b) bought and sold by weight.

(5) A licensee that also is a holder of a medical cannabis processing license shall adhere to the separation requirements of Section R68-28-5 to ensure physical separation of medical cannabis and industrial hemp in their facility.

(6) A licensee that manufactures cannabinoid products shall ensure that the facility meets basic cleanliness standards, including:

(a) buildings are of suitable size, design, and construction to permit unobstructed placement of equipment, orderly storage of materials, sanitary operation, and proper cleaning and maintenance;

(b) floors, walls, and ceilings are constructed of smooth, easily cleanable surfaces and are kept clean and in good repair;

(c) fixtures, ducts, and pipes are installed in such a manner that drip or condensate does not contaminate materials, utensils, contact surfaces of equipment, or finished products in bulk;

(d) lighting and ventilation are sufficient for the intended operation and comfort of personnel;

(e) water supply, washing and toilet facilities, floor drainage, and sewage system are adequate for sanitary operation and cleaning of facilities, equipment, and utensils, as well as to satisfy employee needs and facilitate personal cleanliness; and

(f) adequate filth and pest controls are in place.

R66-30-8. Required Reports.

(1) A licensee shall submit a completed Production Report on a form provided by the department by December 31st.

(2) The failure to submit a timely completed form may result in the denial of a renewal license.

R66-30-9. Additional Records.

(1) The licensee shall keep records of receipt for any industrial hemp material obtained including:

(a) the date of receipt;

(b) quantity received;

(c) an identifying lot number created by the licensee; and

(d) the seller's information including:

(i) the seller's department license number;

(ii) seller's contact information; and

(iii) the address of the facility or growing area from which the industrial hemp material was shipped.

(2) The licensee shall keep records that include the following information for each batch of industrial hemp material processed;

(a) the date of processing;

(b) the lot number of the material;

(c) the amount processed;

(d) the type of processing; and

(e) any lab test conducted on the industrial hemp material or product during the processing.

(3) The licensee shall keep records of any derivative or synthetic cannabinoids procured or produced and the products they are used for.

(4) The licensee shall keep records of any tests conducted with the identifying lot number.

(5) A licensee processing a cannabinoid product for human consumption shall keep records required by 21 CFR 111 including:

(a) written procedures for preventing microbial contamination;

(b) documentation of training of employees;

(c) cleaning logs of equipment;

(d) procedures for cleaning the physical facility;

(e) documentation of your qualification of supplier; and

(f) documentation of calibration of machinery.

(6) A licensee processing a cannabinoid product for animals shall keep records as required by 21 CFR 507 including:

(a) written procedures for preventing microbial contamination;

(b) documentation of training of employees;

(c) cleaning logs of equipment;

(d) procedures for cleaning the physical facility; and

(e) documentation of calibration of machinery.

(7) The licensee shall keep records of any products they have manufactured and the disposition of any cannabinoid material that leaves the facility.

(8) Records shall be maintained for a minimum of three years.

(9) Records are subject to review by department officials at the time of inspection or upon request.

R66-30-10. Testing.

(1) Cannabinoid products shall be tested for the following before being made available for retail sale:

(a) cannabinoid profile;

(b) solvents;

(c) pesticides;

(d) microbials;

(e) heavy metals; and

(f) foreign matter.

(2) The testing shall be completed by a third-party laboratory.

(3) The department shall conduct random testing of cannabinoid products and materials.

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

R66-30-11. Inspections and Sampling.

(1) The department shall have complete and unrestricted access to industrial hemp plants, seeds, and materials and any land, buildings, and other structures used to process industrial hemp.

(2) Samples of industrial hemp or cannabinoid product may be randomly taken from the facility by department officials.

(3) The department may review records kept in accordance with rule requirements.

(4) The department shall notify a licensee of test results greater than 0.3% THC.

(5) Any laboratory test with a result greater than 0.3% THC may be considered a violation of the terms of the license and may result in an immediate license revocation.

(6) Any laboratory test of a final product with a result of 1% THC or greater shall be turned over to the appropriate law enforcement agency and revocation of the processor license shall be immediate.

(7) The department shall notify the licensee of any solvents, metals, microbials, pesticides, or foreign matter found during testing.

(8) The presence of deleterious or harmful substances may be considered a violation of the terms of the license and may result in a license revocation.

R66-30-12. Storage of Industrial Hemp Material and Cannabinoid Products.

(1) A licensee may store industrial hemp material and cannabinoid products at their licensed facility provided:

(a) the licensee informs the department of the type and amount of the product being stored in the storage facility;

(b) the storage facility is outside of the public view; and

(c) the storage facility is secured with physical containment such as walls, fences, locks, and with an alarm system to provide maximum reasonable security.

(2) A Tier One or Tier Two licensee may store a raw concentrate that exceeds 0.3% THC provided:

(a) the concentrate is kept in a secure room;

(b) the concentrate is kept separate from other hemp and cannabinoid products;

(c) access to the concentrate is limited; and

(d) a record is kept of the amount of concentrate being stored and when it is being moved.

(3) Storage facilities shall be maintained in accordance with the practice adopted in Section R68-25-7.

(4) Storage facilities and records are subject to random inspection by department officials.

R66-30-13. Transportation of Industrial Hemp Material.

(1) Each movement of industrial hemp material shall include a transport manifest that includes the following information:

(a) a copy of the COA for each batch included in the shipment;

(b) the location of the sending and receiving parties;

(c) proof of registration or licensure for the sending and receiving parties; and

(d) a bill of lading for the transported material.

R66-30-14. Restriction on the Sale and Transfer of Industrial Hemp Material.

(1) A licensee may not sell or transfer living plants, viable plants, viable seed, industrial hemp material to any person not licensed by the department or the USDA.

(2) A licensee may sell stripped stalks, fiber, and nonviable seed to the general public provided the material's THC level is less than 0.3%.

R66-30-15. Renewal.

(1) A licensee shall resubmit the documents required in Section R68-25-4, with updated information, before December 31st of the current year.

(2) The department may deny a renewal for an incomplete application.

(3) The department may deny renewal for any licensee who has violated any portion of this rule or state law.

R66-30-16. Violation.

(1) It is a violation to process industrial hemp or industrial hemp material on a site not approved by the department.

(2) It is a violation to process industrial hemp or industrial hemp material on a site within 1,000 feet of a community location.

(3) It is a violation to process industrial hemp or industrial hemp material from a source that is not approved by the department.

(4) A licensee may not allow unsupervised public access to hemp processing facilities.

(5) It is a violation to employ a person under the age of 18 in the processing or handling of industrial hemp or cannabinoid products.

(6) It is a violation to sell a cannabinoid product to the public or another licensee in violation of this section or state laws governing the final product.

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

(8) It is a violation to fail to keep records required by this rule or to fail to adhere to the notification requirements of this rule.

(9) It is a violation to use artificially derived cannabinoids in cannabinoid products without notifying the department.

(10) It is a violation for a licensee to allow an employee that has been convicted of a drug-related felony or its equivalent access to industrial hemp material or cannabinoid product that contains over 0.3% THC or has the potential to contain over 0.3% THC.

(11) It is a violation to have cannabinoid concentrate without a cannabinoid product processing license.

(12) It is a violation to store cannabinoid concentrate with greater than 0.3% THC concentration without following the requirements of Subsection R68-25-12(2).

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

(14) It is a violation to have non-compliant material.

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

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

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

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

(19) For holders of industrial hemp and medical cannabis processing licenses, it is a violation to operate a facility that does not adhere to the separation requirements of Section R68-28-5.

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

(21) It is a violation to deny the department the ability to take a sample of a cannabinoid product during an inspection or as part of an investigation.

(22) It is a violation to deny the department access to a cannabinoid product processing facility or cannabinoid product processing facility records during regular business hours.

KEY: cannabidiol, hemp products, hemp extraction, hemp oil
Date of Last Change: 2024
Authorizing, and Implemented or Interpreted Law: 4-41-103(4)

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	**R66-31**	**Filing ID: 56354**

Agency Information

1. Department:	Agriculture and Food
Agency:	Medical Cannabis and Industrial Hemp
Building:	TSOB South Bldg, Floor 2
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO Box 146500
City, state and zip:	Salt Lake City, UT 84114-6500
Contact persons:	

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

General Information

2. Rule or section catchline:

R66-31. Industrial Hemp Cannabinoid Product Testing

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

This rule originally existed as Rule R68-37.

However, a repeal has been filed on Rule R68-37 so it can be reenacted under a new title specific to medical cannabis and industrial hemp, Title R66.

4. Summary of the new rule or change:

This new rule is substantively the same as Rule R68-37, which is being repealed and simultaneously reenacted as Rule R66-31 under the new Title R66.

(EDITOR'S NOTE: The proposed repeal of Rule R68-37 is under ID No. 56353 in this issue, April 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 proposed new rule does not have a fiscal impact to the state because the rule text is not changing between the repeal and the new rule.

It is just being repealed to be reenacted under new Rule R66-31.

B) Local governments:

Local governments will not be impacted because they do not participate in the medical cannabis program.

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

This proposed new rule does not have a fiscal impact to small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed new rule does not have a fiscal impact to non-small businesses because the rule text is not changing between the repeal and the new rule.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
This proposed new rule does not have a fiscal impact to other persons because the rule text is not changing between the repeal and the new rule.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**
Compliance costs are not impacted because the substance of the rule is not changing 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

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

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

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024
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 W. Buttars, Commissioner	**Date:**	03/07/2024

R66. Agriculture and Food, Medical Cannabis and Industrial Hemp.

R66-31. Industrial Hemp Cannabinoid Product Testing.

R66-31-1. Authority and Purpose.

Pursuant to Subsection 4-41-204(2), this rule establishes the standards for industrial hemp cannabinoid product potency testing and sets limits for foreign matter, microbial life, pesticides, residual solvents, heavy metals, and mycotoxins.

R66-31-2. Definitions.

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

(a) pesticides;

(b) heavy metals;

(c) solvents;

(d) microbial life;

(e) mycotoxins; or

(f) foreign matter.

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

(3) "Batch or lot" means a quantity of:

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

(b) cannabinoid product produced on a particular date and time, following clean up until the next clean up during which industrial hemp concentrate is used.

(4) "Cannabinoid" means any:

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

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

(5) "Cannabinoid concentrate" means:

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

(b) any amount of a natural, derivative, or synthetic cannabinoid in the synthetic cannabinoid's purified state.

(6) "Cannabinoid product" means the same as the term is defined in Subsection 4-41-102(1).

(7) "Cannabinoid product THC level" means a combined concentration of total THC and any THC analog of less than 0.3% on a dry weight basis if laboratory testing confirms a result within a measurement of uncertainty that includes the combined concentration of 0.3%.

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

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

(10) "Certificate of analysis" (COA) means a document produced by a testing laboratory listing the results for which that testing was performed.

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

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

(13) "Foreign matter" means:

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

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

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

(15) "Industrial hemp manufacturer" means an entity that holds, stores, packages, or labels an industrial hemp cannabinoid product.

(16) "Pest" means:

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

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

(17) "Pesticide" means any:

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

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

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

(18) "THC" means total composite tetrahydrocannabinol, including delta-9-tetrahydrocannabinol, tetrahydrocannabinolic acid, and any THC analogs as defined in Subsection 58-37-4(2)(a)(ii)(AA).

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

(20) "Total CBD" means the sum of the determined amounts of CBD and CBDA, according to the formula: Total CBD = CBD + (CBDA x 0.877).

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

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

R66-31-3. Required Cannabinoid Product Tests.

(1) An industrial hemp manufacturer may not register or sell a cannabinoid product unless a third party testing laboratory has tested a representative sample of the cannabinoid product to determine:

(a) the amount of any THC analogs present in the sample; and

(b) the presence of adulterants in the sample.

(2) A certificate of analysis shall be included with each batch of cannabinoid product in accordance with Section R68-26-4.

R66-31-4. Foreign Matter Standards.

A sample and related batch of cannabinoid product fails quality assurance testing if:

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

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

(3) foreign matter is found that is suspected to have been intentionally added to the sample to increase its visual appeal or market value.

R66-31-5. Potency Testing and Standards.

(1) A batch of cannabinoid product shall have the following determined and listed on the COA:

(a) quantity of any cannabinoid it is known to contain, including any THC analog; and

(b) the cannabinoid profile by percentage of mass.

(2) Cannabinoid products may not exceed the cannabinoid product THC level.

R66-31-6. Microbial Standards.

A sample and related batch of cannabinoid product fails quality assurance testing for microbiological contaminants if the results exceed the limits as set forth in Table 1.

TABLE 1
Microbial Analytes and Action Levels

Material	Microbial Limit Requirement (cfu)
Cannabinoid Concentrate	Total Aerobic Microbial Count ≤100,000 Absence of E. Coli and Salmonella spp. Absence of Aspergillus fumigatus, Aspergillus flavus, Aspergillus niger, and Aspergillus terreus

Orally Consumable Products	Total Aerobic Microbial Count ≤10,000 Total Combined Yeast and Mold Count ≤1,000 Absence of E. Coli and Salmonella spp. Absence of Staph
Transdermal Products	Total Aerobic Microbial Count ≤250 Total Yeast and Mold ≤250 Absence of Pseudomonas Absence of Staph

R66-31-7. Pesticide Standards.

(1) A sample and related batch of cannabinoid product fails quality assurance testing for pesticides if the results exceed the limits as set forth in Table 2.

TABLE 2
Pesticide Analytes and Action Levels

Analyte	Chemical Abstract Service	Action Level
	(CAS) Registry number	ppm
Abamectin	71751-41-2	0.5
Acephate	30560-19-1	0.4
Acequinocyl	57960-19-7	2
Acetamiprid	135410-20-7	0.2
Aldicarb	116-06-3	0.4
Azoxystrobin	131860-33-8	0.2
Bifenazate	149877-41-8	0.2
Bifenthrin	82657-04-3	0.2
Boscalid	188425-85-6	0.4
Carbaryl	63-25-2	0.2
Carbofuran	1563-66-2	0.2
Chlorantraniliprole	500008-45-7	0.2
Chlorfenapyr	122453-73-0	1
Chlorpyrifos	2921-88-2	0.2
Clofentezine	74115-24-5	0.2
Cypermethrin	52315-07-8	1
Daminozide	1596-84-5	1
DDVP (Dichlorvos)	62-73-7	0.1
Diazinon	333-41-5	0.2
Dimethoate	60-51-5	0.2
Ethoprophos	13194-48-4	0.2
Etofenprox	80844-07-1	0.4
Etoxazole	153233-91-1	0.2
Fenoxycarb	72490-01-8	0.2
Fenpyroximate	134098-61-6	0.4
Fipronil	120068-37-3	0.4
Flonicamid	158062-67-0	1
Fludioxonil	131341-86-1	0.4
hexythiazox	78587-05-0	1
imazalil	35554-44-0	0.2
Imidacloprid	138261-41-3	0.4
Kresoxim-methyl	143390-89-0	0.4
Malathion	143390-89-0	0.2
Metalaxyl	57837-19-1	0.2
Methiocarb	2032-65-7	0.2
Methomyl	16752-77-5	0.4
Methyl parathion	298-00-0	0.2
MGK-264	113-48-4	0.2
Myclobutanil	88671-89-0	0.2
Naled	300-76-5	0.5
Oxamyl	23135-22-0	1
Paclobutrazol	76738-62-0	0.4
Permethrins	52645-53-1	0.2
Phosmet	732-11-6	0.2
Piperonyl butoxide	51-03-6	2
Prallethrin	23031-36-9	0.2
Propiconazole	60207-90-1	0.4
Propoxur	114-26-1	0.2
Pyrethrins	8003-34-7	1
Pyridaben	96489-71-3	0.2
Spinosad	168316-95-8	0.2
Spiromesifen	283594-90-1	0.2
Spirotetramat	203313-25-1	0.2
Spiroxamine	118134-30-8	0.4
Tebuconazole	80443-41-0	0.4
Thiacloprid	111988-49-9	0.2
Thiamethoxam	153719-23-4	0.2
Trifloxystrobin	141517-21-7	0.2

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

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

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

R66-31-8. Residual Solvent Standards.

(1) A sample and related batch of cannabinoid product fails quality assurance testing for residual solvents if the results exceed the limits provided in Table 3 unless the solvent is:

(a) a component of the product formulation;

(b) listed as an ingredient; and

(c) generally considered to be safe for the intended form of use.

TABLE 3
List of Solvents and Action Levels

Solvent	Chemical Abstract Service	Action level
	(CAS)Registry number	Ppm
1,2 Dimethoxyethane	110-71-4	100
1,4 Dioxane	123-9	380
1-Butanol	71-36-3	5,000
1-Pentanol	71-41-0	5,000
1-Propanol	71-23-8	5,000
2-Butanol	78-92-2	5,000
2-Butanone	78-93-3	5,000
2-Ethoxyethanol	110-80-5	160

2-methylbutane	78-78-4	5,000
2-Propanol (IPA)	67-63-0	5,000
Acetone	67-64-1	5,000
Acetonitrile	75-05-8	410
Benzene	71-43-2	2
Butane	106-97-8	5,000
Cumene	98-82-8	70
Cyclohexane	110-82-7	3,880
Dichloromethane	75-09-2	600
2,2-dimethylbutane	75-83-2	290
2,3-dimethylbutane	79-29-8	290
1,2-dimethylbenzene	95-47-6	See Xylenes
1,3-dimethylbenzene	108-38-3	See Xylenes
1,4-dimethylbenzene	106-42-3	See Xylenes
Dimethyl sulfoxide	67-68-5	5,000
Ethanol	64-17-5	5,000
Ethyl acetate	141-78-6	5,000
Ethylbenzene	100-41-4	See Xylenes
Ethyl ether	60-29-7	5,000
Ethylene glycol	107-21-1	620
Ethylene Oxide	75-21-8	50
Heptane	142-82-5	5,000
n-Hexane	110-54-3	290
Isopropyl acetate	290	5,000
Methanol	67-56-1	3,000
Methylpropane	75-28-5	5,000
2-Methylpentane	107-83-5	290
3-Methylpentane	96-14-0	290
N,N-dimethylacetamide	127-19-5	1,090
N,N-dimethylformamide	68-12-2	880
Pentane	109-66-0	5,000
Propane	74-98-6	5,000
Pyridine	110-86-1	100
Sulfolane	126-33-0	160
Tetrahydrofuran	109-99-9	720
Toluene	108-88-3	890
Xylenes	1330-20-7	2,170

(2) Xylenes is a combination of the following:
(a) 1,2-dimethylbenzene;
(b) 1,3-dimethylbenzene;
(c) 1,4-dimethylbenzene; and
(d) ethyl benzene.

R66-31-9. Heavy Metal Standards.

A sample and related batch of cannabinoid product fails quality assurance testing for heavy metals if the results exceed the limits provided in Table 4.

TABLE 4 Heavy Metals	
Metals	Natural Health Products Acceptable limits in parts per million
Arsenic	<2
Cadmium	<.82
Lead	<1.2
Mercury	<.4

R66-31-10. Mycotoxin Standards.

A sample and related batch of cannabinoid product fails quality assurance testing for mycotoxin if the results exceed the limits provided in Table 5.

TABLE 5 Mycotoxin	
Test	Specification
The Total of	
Aflatoxin B1,	
Aflatoxin B2,	
Aflatoxin G1, and	
Aflatoxin G2	<20 ppb of substance
Ochratoxin A.	<20 ppb of substance

R66-31-11. Prohibited Additives.

Vitamin E Acetate may not be permitted to be present in any inhalable cannabinoid product.

KEY: industrial hemp, cannabinoid, testing
Date of Last Change: 2024
Authorizing, and Implemented or Interpreted Law: 4-41-204(2)

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	**R66-32**	**Filing ID: 56356**

Agency Information

1. Department:	Agriculture and Food	
Agency:	Medical Cannabis and Industrial Hemp	
Building:	TSOB South Bldg, Floor 2	
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City, state and zip:	Salt Lake City, UT 84114-6500	
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Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R66-32. Industrial Hemp Testing Laboratory

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

This rule originally existed as Rule R68-36.

However, a repeal has been filed on Rule R68-36 so it can be reenacted under a new title specific to medical cannabis and industrial hemp, Title R66.

4. Summary of the new rule or change:

This new rule is substantively the same as Rule R68-36, which is being repealed and simultaneously reenacted as Rule R66-32 under the new Title R66.

(EDITOR'S NOTE: The proposed repeal of Rule R68-36 is under ID No. 56368 in this issue, April 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 proposed new rule does not have a fiscal impact to the state because the rule text is not changing between the repeal and the new rule.

It is just being repealed to be reenacted under new Rule R66-32.

B) Local governments:

Local governments will not be impacted because they do not participate in the medical cannabis program.

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

This proposed new rule does not have a fiscal impact to small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed new rule does not have a fiscal impact to non-small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed new rule does not have a fiscal impact to other persons because the rule text is not changing between the repeal and the new rule.

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

Compliance costs are not impacted because the substance of the rule is not changing 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

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

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

Citation Information

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

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)	Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control
Publisher	Published by the American Herbal Pharmacopoeia
Issue Date	2014

B) This rule adds, updates, or removes the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	OECD Principles of Good Laboratory Practice and Compliance Monitoring
Publisher	Published by the Organization for Economic Co-operation and Development
Issue Date	1997

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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024
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 W. Buttars, Commissioner	Date:	03/07/2024

R66. Agriculture and Food, Medical Cannabis and Industrial Hemp.

R66-32. Industrial Hemp Testing Laboratory.

R66-32-1. Authority and Purpose.

Pursuant to Section 4-41-103.4, this rule establishes the application process, qualifications, and requirements to obtain and maintain an industrial hemp testing laboratory permit.

R66-32-2. Definitions.

(1) "Acceptable hemp THC level" means a total composite tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis if laboratory testing confirms a result within a measurement of uncertainty that includes the total composite tetrahydrocannabinol concentration of 0.3%.

(2) "Applicant" means any person or business entity who applies for an industrial hemp testing laboratory permit.

(3) "Batch" means a quantity of:

(a) industrial hemp extract produced on a particular date and time, following clean up until the next clean up during which lots of industrial hemp are used;

(b) industrial hemp product produced on a particular date and time, following clean up to the next clean up during which industrial hemp extract is used; or

(c) industrial hemp dried and cured on a particular date and time.

(4) "Cannabinoid product" means a chemical compound extracted from a hemp product that:

(a) is processed into a medicinal dosage form; and

(b) contains an acceptable hemp THC level.

(5) "CBD" means cannabidiol.

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

(7) "DEA registration" means a laboratory that has an active registration and is certified to handle controlled substances as an industrial hemp testing laboratory with the Drug Enforcement Authority (DEA).

(8) "Industrial hemp testing laboratory" means a facility or business who:

(a) conducts a chemical or other analysis of industrial hemp or an industrial hemp product; or

(b) acquires, possesses, and transports industrial hemp or industrial hemp product with the intent to conduct a chemical or other analysis of the industrial hemp or industrial hemp product.

(9) "Industrial hemp" means any part of a cannabis plant , whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis.

(10) "Industrial hemp testing laboratory permit" means a permit that the department issues to a laboratory qualified to test industrial hemp under the state hemp production plan.

(11) "Industrial hemp retailer permit" means a permit that the department issues to a retailer who sells or markets any industrial hemp product.

(12) "Industrial hemp product" means a product derived from, or made by processing industrial hemp plants or industrial hemp plant parts.

(13) "Licensee" means a person authorized by the department to grow, process or possess industrial hemp.

(14) "Lot" means the hemp crop acreage designated by a licensed hemp grower and as reported in the grower report.

(15) "Measurement of Uncertainty" means the parameter associated with the result of a measurement that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to measurement.

(16) "Noncompliant material" means a hemp plant or hemp product that does not comply with Title 4, Chapter 41, Hemp and Cannabinoid Act, including a cannabis plant or product that contains a concentration of 0.3% tetrahydrocannabinol or greater by dry weight.

(17) "Remediated Biomass" means hemp that has failed an initial test that is combined with shredded plant material for remediation.

(18) "Tetrahydrocannabinol" or "THC" means total composite tetrahydrocannabinol, including delta-9 tetrahydrocannabinol, tetrahydrocannabinolic acid, and any THC analogs as defined in Subsection 58-37-4(2)(a)(iii)(AA).

R66-32-3. Industrial Hemp Testing Laboratory Permit.

(1) An applicant wishing to test industrial hemp shall apply on a form provided by the department for a permit to become an industrial hemp testing laboratory.

(2) An industrial hemp testing laboratory permit shall allow a laboratory to receive industrial hemp or industrial hemp product from a licensed industrial hemp grower or processor to conduct compliance testing as required by Section 4-41-103.1, Rule R68-22, and Sections R68-24-6, R68-25-9, R68-26-4, R68-26-6, and R68-32-8.

(3) An industrial hemp testing laboratory permit shall allow a laboratory to receive industrial hemp from a licensed industrial hemp grower or processor to conduct non-compliance testing as requested by the licensee.

(4) A complete application shall include:

(a) the required fee as approved by the Legislature in the fee schedule;

(b) a copy of a current DEA registration; and

(c) statements, forms, diagrams, operation plans, and other applicable documents required in the application packet to be accepted and processed by the department.

(5) Before approving an application, the department may contact any applicant and request additional supporting documentation or information.

(6) Before issuing an industrial hemp testing laboratory permit, the department shall inspect the proposed premises to determine if the applicant complies with state law.

(7) The department may conduct face-to-face interviews with an applicant if needed to determine the best-qualified applicants for the number of permits needed.

(8) An industrial hemp testing laboratory permit shall expire on December 31 of the year of issue.

(9) An industrial hemp testing laboratory permit may not be sold or transferred.

R66-32-4. Industrial Hemp Testing Laboratory Requirements.

(1) On or after January 1, 2022, an industrial hemp testing laboratory shall be registered with the DEA in accordance with the Controlled Substances Act, 21 USC 823 (f), 21 CFR 1301.13, and 7 CFR 990.

(2) An industrial hemp testing laboratory shall:

(a) establish written standard operating procedures (SOPs) for each test being conducted;

(b) establish an internal SOP that shall address testing and retesting industrial hemp material;

(c) ensure that any SOPs are consistent with Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control, 2014 Revisions, published by the American Herbal Pharmacopoeia;

(d) establish quality assurance protocols that:

(i) ensure the validity and reliability of test results;

(ii) ensure consistent, accurate, analytical performance; and

(iii) include an effective disposal procedure, in accordance with state and federal laws for noncompliant samples;

(e) require grinding of any pre- or post-harvest testing sample to ensure homogeneity of plant material before testing;

(f) ensure that:

(i) pre-harvest testing measures the total THC concentration in a sample submitted for analysis;

(ii) the laboratory performs chemical analysis on the sample using post-decarboxylation or other similarly reliable methods where total THC concentration level considers the potential to convert delta-9-tetrahydrocannabinolic acid (THCA) into THC;

(ii) test results reflect the total available THC derived from the sum of the THC and THCA content; and

(iii) testing of final products measures total composite tetrahydrocannabinol, and that the total delta-9 tetrahydrocannabinol concentration level is determined and reported on a dry weight basis;

(h) calculate and include the measurement of uncertainty when THC concentration test results are reported and that:

(i) the method used to calculate the measurement of uncertainty may include one listed in the AOAC Standard Method Performance Requirements 2019.003 found at https://www.aoac.org/resources/smpr-2019003/, or any equivalent method approved by the department;

(ii) the measurement of uncertainty is estimated and reported with test results;

(iii) each industrial hemp testing laboratory uses appropriate, validated methods and procedures for testing activities and evaluating the measurement of uncertainty; and

(iv) the range of the measurement of uncertainty is reported as a +/- value and uses the same unit as the hemp THC threshold, such as +/- 0.05, following best practices for significant figures and rounding;

(i) follow validated analytical methods, such as those published by AOAC, American Herbal Pharmacopoeia, the Environmental Protection Agency (EPA), the Food and Drug Administration (FDA), or another reputable scientific organization, or notify the department of an alternative scientifically valid testing methodology the lab is following for each required test:

(i) an industrial hemp testing laboratory may not use an alternative testing method without prior review from the department;

(ii) an alternative testing protocol shall only be considered if it is comparable to the baseline mandated in the 2018 Farm Bill and established under the United States Department of Agriculture (USDA) Final Rule establishing a Domestic Hemp Production Program published at 7 CFR Part 990;

(iii) alternative procedures shall be validated by the USDA in writing;

(iv) the department shall review any monograph or analytical method followed by an industrial hemp testing laboratory to ensure the methodology produces scientifically accurate results

before the use of an alternative testing methods to conduct the required tests; and

(v) method performance specifications shall ensure analytical tests are sufficiently sensitive for the purposes of the detectability requirements of this rule;

(j) provide the department with documentation showing that the industrial hemp testing laboratory has obtained and maintained the International Organization for Standardization (ISO) 17025:2017 accreditation. An industrial hemp testing laboratory may be permitted before ISO 17025:2017 accreditation provided the industrial hemp testing laboratory:

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

(ii) becomes ISO 17025:2017 accredited within 18 months.

(3) The department incorporates the following materials by reference:

(a) Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control, 2014 Revisions, published by the American Herbal Pharmacopoeia; and

(b) OECD Principles of Good Laboratory Practice and Compliance Monitoring, 1997 version, published by the Organization for Economic Co-operation and Development.

R66-32-5. Information Sharing.

(1) An industrial hemp testing laboratory performing THC testing to ensure compliance with this rule shall share the test results with the licensee, the department, and the USDA.

(2) An industrial hemp testing laboratory shall:

(a) report each test result, whether passing or failing;

(b) ensure that each testing report used to determine compliance shall be marked "official compliance test";

(c) ensure that any THC testing used for monitoring THC levels throughout the growing season should not be marked "official compliance test";

(d) ensure that any testing that shows THC levels above 1% are provided to the department; and

(e) retain a legible copy of each test result marked as an "official compliance test" for a period of three years from the date of analysis and is made available to the department upon request.

R66-32-6. Security Requirements.

(1) An industrial hemp testing laboratory shall have a locked and secured storage area with limited access provided only to employees that are approved to access noncompliant material.

(2) Any material shall be stored in the locked and secured area until it can be destroyed according to the industrial hemp testing laboratory disposal plan.

(3) An industrial hemp testing laboratory shall identify each employee who will have access to noncompliant material.

(4) An industrial hemp testing laboratory shall provide a nationwide criminal history from the FBI, completed within three months of the application, for each employee who will have access to noncompliant material.

R66-32-7. Test Results Exceeding 0.3% THC Concentration in Pre-Harvest Testing.

(1) Any sample test result where the total THC concentration of the sample is higher than the acceptable hemp THC level shall be conclusive evidence that one or more cannabis plants or plant products from the lot represented by the sample contain a THC concentration over that allowed.

(2) If the results of a test conclude that the THC concentration levels of a sample are higher than the acceptable hemp THC level, the industrial hemp testing laboratory shall promptly notify the producer, the department and the USDA.

(3) A noncompliant sample may be re-tested, at the expense of the licensee, if they believe that the original THC concentration levels were in error.

(4) An industrial hemp testing laboratory shall follow the same procedures used in the initial test for any retests.

(5) Re-test results will be shared with the licensee, the department, and the USDA.

(6) If the industrial hemp material is >1% total THC content the industrial hemp testing laboratory must notify law enforcement.

(7) Remediated biomass submitted for official compliance testing shall follow the same procedures used to conduct the initial test.

R66-32-8. Inventory Log Failed Samples.

(1) Industrial hemp samples submitted to the industrial hemp testing laboratory that are noncompliant shall be tracked and monitored in an inventory log until each laboratory test has been completed.

(2) The inventory log under Subsection (1) shall include the following:

(a) the date and time the test sample was received;

(b) each sample used for testing and the test results;

(c) the identity of the agent conducting the test;

(d) the weight and disposal of the noncompliant materials;

(e) the identity of who disposed of the noncompliant material; and

(f) any theft or loss or suspected theft or loss of noncompliant material.

R66-32-9. Destruction of Noncompliant Material.

(1) An industrial hemp testing laboratory shall destroy any noncompliant material in accordance with state and federal laws and regulations.

(2) The noncompliant material shall be made unusable before leaving the industrial hemp testing laboratory.

(3) Noncompliant material shall be made unusable by grinding and incorporating the noncompliant material with other ground materials so the resulting mixture is at least 50% on-hemp waste by volume or by other methods approved by the department before implementation.

(4) Materials used to grind and incorporate with noncompliant hemp material fall into two categories:

(a) compostable; or

(b) non-compostable.

(5) Compostable waste is hemp waste to be disposed of as compost or in another organic waste method mixed with:

(a) food waste;

(b) yard waste; or

(c) vegetable-based grease or oils.

(6) Non-compostable waste is industrial hemp waste to be disposed of in a landfill or another disposal method, such as incineration, mixed with:

(a) paper waste;

(b) cardboard waste;

(c) plastic waste; or

(d) soil.

(7) If a laboratory needs to transport noncompliant material they must first obtain a transport permit from the department.

(8) Noncompliant material may be held by a laboratory for no longer than 90 days.

R66-32-10. Change in Operation Plans.

(1) An independent hemp testing laboratory shall notify the department before making any changes to:

(a) the facility's name;

(b) a location;

(c) testing methods, equipment, remodeling, expansion, reduction or physical, non-cosmetic alteration of the lab; or

(d) written operating procedures.

(2) An industrial hemp testing laboratory may not implement changes to the approved operation plan without department approval.

(3) The department shall respond to the request for changes within 15 business days.

(4) The department shall approve requested changes unless approval would lead to a violation of the applicable laws and rules of the state.

(5) The department shall specify the reason for the denial of a change to the operation plan.

R66- 32-11. Renewals.

(1) A licensee shall resubmit the documents required in Section R68-36-3 with updated information before December 31st of the current year.

(2) The department may deny a renewal for an incomplete application.

(3) The department may deny renewal for any licensee who has violated any portion of this rule or state law.

(4) If the industrial hemp testing laboratory DEA registration expires or is revoked by the DEA, the industrial hemp testing permit issued by the department shall also be revoked.

(5) The department shall renew a permit unless renewal would lead to a violation of the applicable laws and rules of the state.

R66-32-12. Proficiency Testing.

(1) The department shall establish a proficiency testing program for hemp testing laboratories.

(2) Each laboratory shall participate in the designated proficiency testing program with satisfactory performance as determined by the department.

R66-32-13. Violation Categories.

Pursuant to Title 4, Chapter 2, Administration, the department may issue the following violations:

(1) Public Safety Violations: $3,000 - $5,000 per violation. This category is for violations that present a direct threat to public health or safety including:

(a) refusal to allow inspection;

(b) refusal to participate in proficiency testing;

(c) failure to comply with testing requirements;

(d) failure to report testing results;

(e) unauthorized personnel on the premises;

(f) permitting criminal conduct on the premises;

(g) engaging in or permitting a violation of Title 4, Chapter 41, Hemp and Cannabinoid Act, that amounts to a public safety violation as described in this subsection.

(2) Regulatory Violations: $1,000 - $5,000 per violation. This category is for violations involving this rule and other applicable state rules including:

(a) failure to maintain DEA registration;

(c) failure to keep and maintain records;

(d) failure to follow the waste and disposal requirements; or

(e) engaging in or permitting a violation of Title 4, Chapter 411, Hemp and Cannabinoid Act, or this rule that amounts to a regulatory violation as described in this subsection.

(3) Permitting Violations: $500- $5,000 per violation. This category is for violations involving industrial hemp testing laboratory permitting requirements including:

(a) an unauthorized change to the operating plan;

(b) failure to notify the department of changes to the operating plan;

(c) failure to follow the operating plan as approved by the department;

(d) engaging in or permitting a violation of this rule or Title 4, Chapter 4, Hemp and Cannabinoid Act that amounts to a licensing violation as described in this subsection; or

(e) failure to respond to violations.

(4) The department shall calculate penalties based on the level of violation, and the adverse effect or potential adverse effect at the time of the incidents giving rise to the violation.

KEY: industrial hemp laboratory, industrial hemp testing
Date of Last Change: 2024
Authorizing, and Implemented or Interpreted Law: 4-41-103.4

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	**R66-33**	**Filing ID: 56358**

Agency Information

1. Department:	Agriculture and Food	
Agency:	Medical Cannabis and Industrial Hemp	
Building:	TSOB South Bldg, Floor 2	
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City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
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Brandon Forsyth	801-710-9945	bforsyth@utah.gov

Kelly Pehrson	385-977-2147	kwpehrson@utah.gov

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

General Information

2. Rule or section catchline:

R66-33. Industrial Hemp Producer Registration

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

This rule originally existed as Rule R68-39.

However, a repeal has been filed on Rule R68-39 so it can be reenacted under a new title specific to medical cannabis and industrial hemp, Title R66.

4. Summary of the new rule or change:

This new rule is substantively the same as Rule R68-39, which is being repealed and simultaneously reenacted as Rule R66-33 under the new Title R66.

(EDITOR'S NOTE: The proposed repeal of Rule R68-39 is under ID No. 56357 in this issue, April 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 proposed new rule does not have a fiscal impact to the state because the rule text is not changing between the repeal and the new rule.

It is just being repealed to be reenacted under new Rule R66-33.

B) Local governments:

Local governments will not be impacted because they do not participate in the medical cannabis program.

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

This proposed new rule does not have a fiscal impact to small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed new rule does not have a fiscal impact to non-small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed new rule does not have a fiscal impact to other persons because the rule text is not changing between the repeal and the new rule.

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

Compliance costs are not impacted because the substance of the rule is not changing 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

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

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

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

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024
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 W. Buttars, Commissioner	**Date:**	03/07/2024

R66. Agriculture and Food, Medical Cannabis and Industrial Hemp.
R66-33. Industrial Hemp Producer Registration.
R66-33-1. Authority and Purpose.

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

R66-33-2. Definitions.

For the purposes of this rule:

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

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

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

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

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

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

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

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

(6) "Non-compliant material" means:

(a) a hemp plant or plant material that does not comply with this rule, including a cannabis plant with a concentration of 0.3% tetrahydrocannabinol or greater by dry weight; and

(b) a cannabinoid product, chemical, or compound with a concentration that exceeds the cannabinoid product THC level.

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

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

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

R66-33-3. Industrial Hemp Producer Registration.

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

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

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

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

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

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

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

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

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

R66-33-4. Inspection and Testing.

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

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

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

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

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

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

R66-33-5. Industrial Hemp Producer Registrant Responsibilities.

A registrant shall:

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

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

(3) Maintain records of receipt and distribution.

(4) Ensure that each production location is registered.

R66-33-6. Industrial Hemp Producer Registration Restrictions.

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

(2) A registrant may not process or handle industrial hemp or industrial hemp material from any person who is not licensed by the department or the United States Department of Agriculture (USDA) or from a person outside the state who is not authorized by the laws of that state.

R66-33-7. Violation.

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

(2) It is a violation to handle or store cannabis above 0 .3% THC.

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

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

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

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

KEY: industrial hemp, hemp fiber, hemp grain, production, registration
Date of Last Change: 2024
Authorizing, and Implemented or Interpreted Law: 4-2-103(1)(i); 4-41-103.3

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	**R66-34**	**Filing ID: 56360**

Agency Information

1. Department:	Agriculture and Food
Agency:	Medical Cannabis and Industrial Hemp
Building:	TSOB South Bldg, Floor 2
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO Box 146500
City, state and zip:	Salt Lake City, UT 84114-6500

Contact persons:		
Name:	**Phone:**	**Email:**
Amber Brown	385-245-5222	ambermbrown@utah.gov
Brandon Forsyth	801-710-9945	bforsyth@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R66-34. Industrial Hemp Retailer Permit
3. Purpose of the new rule or reason for the change:
This rule originally existed as Rule R68-33. However, a repeal has been filed on Rule R68-33 so it can be reenacted under a new title specific to medical cannabis and industrial hemp, Title R66.
4. Summary of the new rule or change:
This new rule is substantively the same as Rule R68-33, which is being repealed and simultaneously reenacted as Rule R66-34 under the new Title R66. (EDITOR'S NOTE: The proposed repeal of Rule R68-33 is under ID No. 56359 in this issue, April 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 proposed new rule does not have a fiscal impact to the state because the rule text is not changing between the repeal and the new rule. It is just being repealed to be reenacted under new Rule R66-34.
B) Local governments:
Local governments will not be impacted because they do not participate in the medical cannabis program.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**
This proposed new rule does not have a fiscal impact to small businesses because the rule text is not changing between the repeal and the new rule.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
This proposed new rule does not have a fiscal impact to non-small businesses because the rule text is not changing between the repeal and the new rule.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
This proposed new rule does not have a fiscal impact to other persons because the rule text is not changing between the repeal and the new rule.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**
Compliance costs are not impacted because the substance of the rule is not changing 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

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

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

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024
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 W. Buttars, Commissioner	**Date:**	03/07/2024

R66. Agriculture and Food, Medical Cannabis and Industrial Hemp.

R66-34. Industrial Hemp Retailer Permit.

R66-34-1. Authority and Purpose.

Pursuant to Section 4-41-103.3 and Subsection 4-2-103(1)(i), this rule establishes the requirements for a person seeking an industrial hemp retailer permit.

R66-34-2. Definitions.

(1) "Cannabinoid product" means the same as the term is defined in Subsection 4-41-102(6).

(2) "Cannabinoid product class" means a group of cannabinoid products:

(a) that have all ingredients in common; and

(b) are produced by or for the same company.

(3) "Conventional Food" means:

(a) an article used for food or drink for human consumption or the components of the article; or

(b) chewing gum or chewing gum components.

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

(5) "Industrial hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by weight.

(6) "Industrial hemp retailer permit" means a permit that the department issues to a retailer who sells or markets any cannabinoid product.

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

(8) "Premises" means a place where an industrial hemp product is sold, offered for sale, exposed for sale, stored, or marketed.

(9) "Viable seeds" means seed that has a germination rate of greater than 0.0%.

R66-34-3. Industrial Hemp Retailer Permit.

(1) A person who sells, offers for sale, exposes for sale, or markets a cannabinoid product in the state shall secure an industrial hemp retailer permit from the department.

(2) A permit shall be obtained before a cannabinoid product is offered for sale in Utah.

(3) A person seeking an industrial hemp retailer permit shall provide to the department:

(a) the name of the person who sells, offers for sale, or markets a cannabinoid product;

(b) the address of each location where the cannabinoid product is sold, offered for sale, or marketed; and

(c) written consent allowing a representative of the department to enter any premises where the person is selling cannabinoid product.

(4) A retailer shall obtain a permit for each individual store or retail establishment location where cannabinoid products are sold.

(5) A permit fee, as set forth in the fee schedule approved by the Legislature, shall be paid to the department with the submission of the application.

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

(7) A permit is renewable for up to a one-year period with an annual renewal fee that shall be paid on or before December 31st of each year.

(8) A late fee shall be assessed for a renewal of an industrial hemp retailer permit submitted after December 31st and shall be paid before the renewal is issued.

R66-34-4. Inspection and Testing.

(1) The department shall randomly inspect a retailer permittee to ensure cannabinoid product distributed or available for distribution in Utah is in compliance with this rule and Rule R68-26.

(2) The department shall periodically sample, analyze, and test cannabinoid product distributed within the state for compliance with registration and labeling requirements, and the certificate of analysis, if applicable.

(3) The department may inspect cannabinoid product distributed or available for distribution for any other reason the department deems necessary.

(4) The department may, upon request, inspect a retailer permittee's records of receipt, inventory, and invoices to ensure cannabinoid product distributed or available for distribution in Utah is following this rule and Rule R68-26.

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

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

R66-34-5. Retailer Permittee Responsibilities.

(1) A retailer shall:

(a) ensure that an advertisement for cannabinoid product sold or marketed in Utah does not contain any medical claim unless the product has been issued a National Drug Code by the FDA; and

(b) ensure that a cannabinoid product sold is properly registered with the department.

(2) A retailer shall provide the identity of the manufacturer or distributor of a cannabinoid product sold upon request of the department.

(3) A retailer may register the product in lieu of the manufacturer if the product is not registered.

(4) A retailer shall ensure that each location is permitted.

(5) A retailer shall ensure that products containing THC or THC analogs are only sold to individuals 21 years of age and older.

R66-34-6. Viable Industrial Hemp Seed.

(1) A person who sells or markets viable industrial hemp seeds in the state shall secure an industrial hemp retailer permit from the department.

(2) A separate permit is required for each individual business location in the state where viable industrial hemp seeds are sold or distributed.

(3) Any manufacturer or distributor who does not have a seed retail business within this state, and who sells or distributes viable industrial hemp seeds directly into Utah, shall obtain an industrial hemp retailer permit from the department for their principal out-of-state business location.

(4) A person who sells or markets viable industrial hemp seeds in the state may only sell viable seed to a licensed industrial hemp producer.

(5) Each industrial hemp retailer that sells or distributes viable industrial hemp seed shall keep a record of any viable industrial hemp seed sales. This sales record shall be submitted to the department through the department's website on the day of each sale and shall contain the following information:

(a) the company name of the industrial hemp retailer;

(b) the store or location name of the industrial hemp retailer making the sale;

(c) the complete industrial hemp retailer permit number;

(d) the first and last name of the individual who made the sale;

(e) the complete date of the sale, including the month, day, and year;

(f) the brand name of the seeds and the quantity sold;

(g) the first and last name of the licensed hemp producer who made the purchase;

(h) the complete license number of the licensed hemp producer who made the purchase; and

(i) the complete address and contact information of the licensed hemp producer who made the purchase, including street name and house number, city, state, zip code, phone number, and email address.

(6) Records shall be kept for a period of two years from the date of the hemp seed sale and shall be made available for inspection by the department.

(7) The department, upon request and within two business days, shall be furnished a copy of any sales records completed by the industrial hemp retailer.

R66-34-7. Violation.

(1) A cannabinoid product shall be considered falsely advertised if the permittee makes a claim about a product that is not on the label.

(2) It is a violation to:

(a) market or sell cannabinoid product in Utah without an industrial hemp retail permit;

(b) distribute, market, or sell cannabinoid product that is not registered with the department;

(c) distribute or market a product that contains greater than 0.3% THC;

(d) distribute or market a cannabinoid product that is represented as a conventional food item or food additive;

(e) market or sell industrial hemp products without a valid retailer permit;

(f) refuse inspection of a retail establishment, product for sale, or a product storage area;

(g) sell cannabinoid products that:

(i) have any likeness bearing resemblance to a cartoon character or fictional character; or

(ii) appear to imitate a food or other product that is typically marketed toward or appealing to children; or

(h) knowingly or intentionally sell or give a cannabinoid product that contains THC or a THC analog to an individual who is not at least 21 years old.

KEY: industrial hemp, retailer permit
Date of Last Change: 2024
Authorizing, and Implemented or Interpreted Law: 4-2-103(1)(i); 4-41-103.3

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	**R66-35**	**Filing ID: 56362**

Agency Information

1. Department:	Agriculture and Food
Agency:	Medical Cannabis and Industrial Hemp
Building:	TSOB South Building, Floor 2
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO Box 146500
City, state and zip:	Salt Lake City, UT 84114-6500

Contact persons:		
Name:	**Phone:**	**Email:**
Amber Brown	385-245-5222	ambermbrown@utah.gov
Brandon Forsyth	801-710-9945	bforsyth@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R66-35. Cannabinoid Product Registration and Labeling
3. Purpose of the new rule or reason for the change:
This rule originally existed as Rule R68-26. However, a repeal has been filed on Rule R68-26 so it can be reenacted under a new title specific to medical cannabis and industrial hemp, Title R66.
4. Summary of the new rule or change:
This new rule is substantively the same as Rule R68-26, which is being repealed and simultaneously reenacted as Rule R66-35 under the new Title R66. (EDITOR'S NOTE: The proposed repeal of Rule R68-26 is under ID No. 56361 in this issue, April 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 proposed new rule does not have a fiscal impact to the state because the rule text is not changing between the repeal and the new rule. It is just being repealed to be reenacted under new Rule R66-35.
B) Local governments:
Local governments will not be impacted because they do not participate in the medical cannabis program.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**
This proposed new rule does not have a fiscal impact to small businesses because the rule text is not changing between the repeal and the new rule.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
This proposed new rule does not have a fiscal impact to non-small businesses because the rule text is not changing between the repeal and the new rule.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
This proposed new rule does not have a fiscal impact to other persons because the rule text is not changing between the repeal and the new rule.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**
Compliance costs are not impacted because the substance of the rule is not changing 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

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

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

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024
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 W. Buttars, Commissioner	**Date:**	03/07/2024

R66. Agriculture and Food, Medical Cannabis and Industrial Hemp.

R66-35. Cannabinoid Product Registration and Labeling.

R66-35-1. Authority and Purpose.

Pursuant to Subsections 4-41-103(4) and 4-41-403(1), this rule establishes the requirements for labeling and registration of cannabinoid products made from and containing industrial hemp.

R66-35-2. Definitions.

(1) "Cannabinoid product" means the same as the term is defined in Subsection 4-41-102(6).

(2) "Cannabinoid product class" means group of cannabinoid products:

(a) that have all ingredients in common; and

(b) are produced by or for the same company.

(3) "Cannabinoid product THC level" means a combined concentration of total THC and any THC analog of less than 0.3% on a dry weight basis if laboratory testing confirms a result within a measurement of uncertainty that includes the combined concentration of 0.3%.

(4) "CBD" or "Cannabidiol" means the cannabinoid identified as CAS# 13956-29-1.

(5) "Certificate of Analysis" (COA) means a document produced by a testing laboratory listing the quantities of the various analytes for which testing was performed.

(6) "Conventional Food" means:

(a) an article used for food or drink for human consumption or the components of the article; or

(b) chewing gum or chewing gum components.

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

(8) "Industrial Hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by weight.

(9) "Label" means the display of each written, printed, or graphic matter upon the immediate container or statement accompanying a cannabinoid product.

(10) "Non-compliant material" means:

(a) a hemp plant that does not comply with this rule, including a cannabis plant with a concentration of 0.3% tetrahydrocannabinol or greater by dry weight; and

(b) a cannabinoid product, chemical, or compound with a concentration that exceeds the cannabinoid product THC level.

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

(12) "Primary cannabinoid" means the three cannabinoids contained in the greatest quantity in the product that are each present above 0.5%.

(13) "Registrant" means a person who manufactures, packages, or distributes cannabinoid product and assumes responsibility for the compliance of the product registration.

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

(15)(a) "THC analog" means a substance that is structurally or pharmacologically substantially similar to, or is represented as being similar to, delta-9-THC.

(b) "THC analog" does not include the following substances or the naturally occurring acid forms of the following substances:

(i) cannabichromene (CBC), the cannabinoid identified as CAS# 20675-51-8;

(ii) cannabicyclol (CBL), the cannabinoid identified as CAS# 21366-63-2;

(iii) cannabidiol (CBD), the cannabinoid identified as CAS# 13956-29-1;

(iv) cannabidivarol (CBDV), the cannabinoid identified as CAS# 24274-48-4; cannabidiol (CBD), the cannabinoid identified as CAS# 13956-29-1;

(v) cannabielsoin (CBE), the cannabinoid identified as CAS# 52025-76-0;

(vi) cannabigerol (CBG), the cannabinoid identified as CAS# 25654-31-3;

(vii) cannabigerovarin (CBGV), the cannabinoid identified as CAS# 55824-11-8;

(viii) cannabinol (CBN), the cannabinoid identified as CAS# 521-35-7;

(ix) cannabivarin (CBV), the cannabinoid identified as CAS# 33745-21-0; or

(x) delta-9-tetrahydrocannabivarin (THCV), the cannabinoid identified as CAS# 31262-37-0.

(16) "Third-party laboratory" means a laboratory with no direct interest in a grower or processor of industrial hemp or cannabinoid products that is capable of performing mandated testing utilizing validated methods.

R66-35-3. Product Registration.

(1) Each cannabinoid product distributed or available for distribution in Utah shall be officially registered annually with the department.

(2) Application for registration shall be made to the department on a form provided by the department including the following information:

(a) the name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicants;

(b) the name of the product;

(c) the type and use of the product;

(d) a complete copy of the label as it will appear on the product in a legible format; and

(e) if the product has been assigned a National Drug Code in accordance with 21 CFR 207.33, the applicant shall provide the National Drug Code number.

(3) The application shall include a certificate of analysis from a third-party laboratory for the product in compliance with Section R68-26-4. The certificate of analysis shall show the cannabinoid profile of the product by percentage of mass.

(4) A registration fee per product, as set forth in the fee schedule approved by the Legislature, shall be paid to the department with the submission of the application.

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

(6) A new registration is required for any of the following:

(a) any change in the cannabinoid product ingredients;

(b) any change to the directions for use; and

(c) any change of name for the product.

(7) Other changes may not require a new registration but the registrant shall submit copies of each label change to the department as soon as they are effective.

(8) The registrant is responsible for the accuracy and completeness of information submitted.

(9) A registration is good for one calendar year from the date of registration and shall be renewed through payment of an annual renewal fee before expiration.

(10) A cannabinoid product that has been discontinued shall continue to be registered in the state until the product is no longer available for distribution.

(11) A late fee shall be assessed for a renewal of a cannabinoid product registration submitted after the day of expiration and shall be paid before the registration renewal is issued.

(12) The department may not register a cannabinoid product if the product:

(a) uses the cannabinoid as a food additive; or

(b) is represented for use as a conventional food, with the exception of:

(i) a gummy if the gummy is shaped as a gelatinous cube or gelatinous rectangular cuboid or in another basic geometric shape

and not in a shape that could be considered appealing to children such as a star shape, fruit, or animal shape; or

(ii) a liquid suspension under two ounces.

R66-35-4. Certificate of Analysis.

(1) Testing shall be conducted on the product in its final form for:

(a) the cannabinoid profile by percentage of mass, performed by the Department's analytical laboratory;

(b) solvents;

(c) pesticides;

(d) microbials;

(e) heavy metals; and

(f) mycotoxins.

(2) The test results required in Subsection R68-26-4(1) shall be reported in accordance with the requirements for a cannabinoid product in Rule R68-37 including the specified units of measure.

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

(a) the batch identification number;

(b) the date received;

(c) the date of completion;

(d) the method of analysis for each test conducted; and

(e) proof that the certificate of analysis is connected to the product.

R66-35-5. Label Requirements.

(1) The label of a cannabinoid product shall contain the following information, legibly displayed:

(a) product name or common name, on the front of the label;

(b) brand name, on the front of the label;

(c) the size of the container or net count of individual items, on the front of the label;

(d) net weight;

(e) the suggested use of the product, including serving size if the product is intended for consumption;

(f) list of ingredients, including:

(i) the amount of any advertised cannabinoid listed as present on the COA;

(ii) the amount of any primary cannabinoid listed as present on the COA; and

(iii) the amount of any THC or any THC analog listed as present on the COA;

(g) list of allergens;

(h) manufacturer, packer, or distributor name and address; and

(i) batch number.

(2) A fact panel may be included on the product label if it is not identified as a Drug Fact Panel or Nutritional Fact Panel.

(3) The label of each product intended for human consumption or intended to be vaporized for inhalation shall include the following text, prominently displayed: "This product has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease."

(4) Cannabinoid products containing a cannabinoid other than CBD produced for absorption by humans shall contain the following text, prominently displayed: "Warning - The safety of this product has not been determined."

(5) Notwithstanding Subsection R68-26-5(1) a cannabinoid product produced for human use that has a National Drug Code issued shall be labeled in accordance with 21 CFR 201.66.

(6) In addition to the requirements of Subsections R68-26-5(1) through R68-26-5(5) a cannabinoid product shall have on the label a scannable barcode, QR code, or web address with an easily located certificate of analysis for the batch identified, containing the information required in Section R68-26-4.

(7) Cannabinoid products may not contain medical claims on the label unless the product has been registered with the FDA and is labeled in accordance with Subsection R68-26-5(5).

(8) Cannabinoid product labeling shall clearly show that the product contains material derived from industrial hemp and not cannabis or medical cannabis.

(9) Cannabinoid product labeling may not:

(a) have any likeness bearing resemblance to a cartoon character or fictional character; or

(b) appear to imitate a food or other product that is typically marketed toward or appealing to children.

(10) A cannabinoid product that is designed to be inhaled shall include a warning on the label regarding the possible health effects of inhaling cannabinoid products.

(11) The label of cannabinoid products intended for oral consumption by animals shall include the amount of cannabinoids per serving determined by weight of the animal.

(12) The label of cannabinoid products intended for consumption by animal may not:

(a) contain any feed claims;

(b) be labeled as food; or

(c) contain any Food and Drug Administration evaluation statement.

(13) A cannabinoid product is considered misbranded if its label is false or misleading in any way.

R66-35-6. Inspection and Testing.

(1) The department shall conduct randomized inspection of cannabinoid products distributed or available for distribution in the state for compliance with this rule.

(2) The department shall periodically sample, analyze, and test cannabinoid products distributed within the state for compliance with registration and labeling requirements and the certificate of analysis.

(3) The department may conduct inspection of cannabinoid products distributed or available for distribution for any reason the department deems necessary.

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

R66-35-7. Violation.

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

(2) Cannabinoid products not meeting the labeling requirements shall be considered misbranded.

(3) Cannabinoid products shall be considered falsely advertised if they do not meet the labeling requirements of this rule.

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

(5) It is a violation to distribute or market industrial hemp flower as a final product.

(6) It is a violation to distribute or market a cannabinoid product that contains greater than 0.3% THC.

(7) It is a violation to distribute or market a cannabinoid product that has not been tested as required by Rule R68-29.

(8) It is a violation to distribute or market a cannabinoid product as a conventional food product, unless the product is exempted under Subsection R68-26-3(12)(b).

(9) It is a violation to distribute or market a cannabinoid product as a food additive.

(10) It is a violation to distribute or market a cannabinoid product that is marketed toward or is appealing to children.

(11) It is a violation to market a cannabinoid product as cannabis or medical cannabis.

(12) It is a violation to submit a fraudulent COA to the department.

R66-35-8. Violation Categories.

(1) Public Safety Violations: Each person shall be fined $3,000-$5,000 per violation. This category is for violations that present a direct threat to public health or safety including:

(a) industrial hemp sold to an unlicensed source;

(b) industrial hemp purchased from an unlicensed source;

(c) refusal to allow inspection;

(d) failure to comply with labeling requirements;

(e) failure to comply with testing requirements;

(f) possessing, manufacturing, or distributing a cannabinoid product that a person knows or should know appeals to children;

(g) marketing a cannabinoid product that makes a medical claim; or

(h) engaging in or permitting a violation of the Title 4, Chapter 41, Hemp and Cannabinoid Act that amounts to a public safety violation as described in this subsection.

(2) Regulatory Violations: Each person shall be fined $1,000-$5,000 per violation. This category is for violations involving this rule and other applicable state rules under Title R68 including:

(a) failure to register a cannabinoid product;

(b) failure to provide a certificate of analysis as required by Section R68-26-4;

(c) failure to keep and maintain records; or

(d) engaging in or permitting a violation of Title 4, Chapter 41a, Hemp and Cannabinoid Act or this rule that amounts to a regulatory violation as described in this subsection.

(3) Licensing Violations: Each person shall be fined $500-$5,000 per violation. This category is for violations involving licensing requirements including:

(a) engaging in or permitting a violation of this rule, other applicable rules under Title R68, or Title 4, Chapter 41, Hemp and Cannabinoid Act, that amounts to a licensing violation; or

(b) failure to respond to violations.

(4) The department shall calculate penalties based on the level of violation and the adverse effect or potential adverse effect at the time of the incidents giving rise to the violation.

(5) The department may enhance or reduce the penalty based on the seriousness of the violation.

KEY: CBD labeling, CBD products, cannabinoid product registration
Date of Last Change: 2024
Authorizing, and Implemented or Interpreted Law: 4-41-403(1); 4-41-402(2); 4-41-103(4)

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	**R68-25**	**Filing ID: 56351**

Agency Information

1. Department:	Agriculture and Food
Agency:	Plant Industry
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO Box 146500
City, state and zip:	Salt Lake City, UT 84114-6500

Contact persons:

Name:	Phone:	Email:
Amber Brown	385-245-5222	ambermbrown@utah.gov
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Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R68-25. Industrial Hemp Program - Cannabinoid Product Processors

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

This rule is being repealed so it can be simultaneously reenacted under a new title specific to medical cannabis and industrial hemp, Title R66.

4. Summary of the new rule or change:

This rule is repealed in its entirety so it can be reenacted under a new title specific to medical cannabis and industrial hemp.

The substantive content will remain the same under new Rule R66-30.

(EDITOR'S NOTE: The proposed new Rule R66-30 is under ID No. 56352 in this issue, April 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 proposed repeal does not have a fiscal impact to the state because the rule text is not changing between the repeal and the new rule. It is reenacted as new Rule R66-30.
B) Local governments:
Local governments will not be impacted because they do not participate in the medical cannabis program.
C) Small businesses ("small business" means a business employing 1-49 persons)**:**
This proposed repeal does not have a fiscal impact to small businesses because the rule text is not changing between the repeal and the new rule.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
This proposed repeal does not have a fiscal impact to non-small businesses because the rule text is not changing between the repeal and the new rule.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
This proposed repeal does not have a fiscal impact to other persons because the rule text is not changing between the repeal and the new rule.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**
Compliance costs are not impacted because the substance of the rule is not changing 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

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

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

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024
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 W. Buttars, Commissioner	**Date:**	03/07/2024

R68. Agriculture and Food, Plant Industry.

[~~R68-25. Industrial Hemp Program - Cannabinoid Product Processors.~~

~~R68-25-1. Authority and Purpose.~~

~~Pursuant to Subsection 4-41-103(4), this rule establishes the standards, practices, procedures, and requirements for participation in the Utah Industrial Hemp Program for the processing and handling of cannabinoid products.~~

~~R68-25-2. Definitions.~~

~~(1)(a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the cannabis plant.~~

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

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

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

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

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

~~(4) "Cannabinoid" means any:~~

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

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

~~(5) "Cannabinoid concentrate" means:~~

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

~~(b) any amount of a natural, derivative, or synthetic cannabinoid in the synthetic cannabinoid's purified state.~~

~~(6) "Cannabinoid product" means a product that:~~

~~(a) contains one or more cannabinoids;~~

~~(b) contains less than the cannabinoid product THC level by dry weight;~~

~~(c) contains a combined amount of total THC and any THC analog that does not exceed 10% of the total cannabinoid content; and~~

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

~~(i) 5 milligrams per serving; and~~

~~(ii) 150 milligrams per package.~~

~~(7) "Cannabinoid product THC level" means a combined concentration of total THC and any THC analog of less than 0.3% on a dry weight basis if laboratory testing confirms a result within a measurement of uncertainty that includes the combined concentration of 0.3%.~~

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

~~(9) "Department" means the Utah Department of Agriculture and Food.~~

~~(10) "Final product" means a reasonably homogenous cannabinoid product in its final packaged form created using the same standard operating procedures and the same formulation.~~

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

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

~~(13) "Key participant" means any of the following:~~

~~(a) a licensee;~~

~~(b) an operations manager;~~

~~(c) a site manager; or~~

~~(d) an employee who has access to any industrial hemp material with a THC concentration above 0 .3%.~~

~~(14) "Handle" or "Handling" means possessing, transporting, or storing industrial hemp for any period.~~

~~(15) "Processing" means any action taken to prepare industrial hemp, or material derived from industrial hemp, for market.~~

~~(16) "Processor" means a person licensed by the department to process industrial hemp or a material derived from industrial hemp.~~

~~(17) "Manufacturing" means storing, preparing, packaging, or labeling of industrial hemp, industrial hemp material, or cannabinoid products.~~

~~(18) "Non-compliant material" means:~~

~~(a) a hemp plant or plant material that does not comply with this rule, including a cannabis plant with a concentration of 0.3% tetrahydrocannabinol or greater by dry weight; and~~

~~(b) a cannabinoid product, chemical, or compound with a concentration that exceeds the cannabinoid product THC level.~~

~~(19) "Raw plant material" or "Raw concentrate" means industrial hemp plant material or concentrate that is not in final product form.~~

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

~~(21) "Third-party laboratory" means a laboratory that has no direct interest in a grower or processor of industrial hemp or cannabinoid products that is capable of performing mandated testing utilizing validated methods.~~

~~R68-25-3. Cannabinoid Product Processor Licenses.~~

~~(1) The department shall issue the following cannabinoid product processor licenses:~~

~~(a) a Tier One license, which allows a licensee to receive, store, extract, transport, and sell industrial hemp material and manufacture finished cannabinoid product;~~

~~(b) a Tier Two license, which allows a licensee to receive raw plant material and extract it into raw concentrate to store, sell, or transport;~~

~~(c) a Tier Three license, which allows a licensee to receive bulk cannabinoid product and store, package, and label finished cannabinoid product; and~~

~~(d) a Tier Four license, which allows a licensee to receive, store, transport, or sell raw concentrate, raw plant material, or sell finished cannabinoid product to a retailer, and perform minimal processing for storage only.~~

~~(2) A Tier One processor may accept raw concentrate with greater than 0.3% THC concentration from another Tier One processor or a Tier Two processor.~~

R68-25-4. Application Requirements.

(1) The applicant shall be a minimum of 18 years old.

(2) The applicant is not eligible to receive a license if they have been convicted of a drug-related felony or its equivalent.

(3) An applicant seeking an industrial hemp processing license shall submit the following to the department:

(a) a complete application form provided by the department;

(b) a physical description of the processing facility;

(c) a plan review of the building, facilities, and equipment;

(d) a street address for each building or site where industrial hemp or cannabinoid products will be processed, handled, or stored;

(e) the planned source of industrial hemp material; and

(f) a statement of the intended end use or disposal for each part of the industrial hemp plant and hemp material.

(4) An applicant and any key participants shall submit a nationwide criminal history from the FBI completed within three months of their application.

(5) The applicant shall submit a fee as approved by the Legislature in the fee schedule.

(6) The department shall deny any applicant who does not submit the required information.

(7) Each applicant for a Tier one, Tier Two, or Tier Three license shall be required to register as a food establishment under Section 4-5-301 pursuant to the requirements of Section R68-25-7.

R68-25-5. Processing Facility Restrictions.

(1) A licensee shall not process or store raw plant material or raw concentrate from industrial hemp in any structure that is used for residential purposes.

(2) A licensee shall not process or store industrial hemp within 1,000 feet of a community location.

(3) A licensee shall not process or handle industrial hemp or hemp material from any person who is not licensed by the department or the United States Department of Agriculture (USDA) or from a person outside the state who is not authorized by the laws of that state.

(4) A licensee shall not permit a person under the age of 18 to access industrial hemp or cannabinoid products.

(5) A licensee shall submit a nationwide criminal history from the FBI to the department for each employee with access to material which contains, or may contain, over 0.3% THC within the first month of employment.

(6) The licensee shall notify the department if a key participant separates from the licensee within two weeks following the separation.

R68-25-6. Extraction Methods.

(1) In addition to the requirements of Section R68-25-4, an applicant seeking to engage in the extraction of cannabinoid concentrate from industrial hemp shall submit to the department a detailed description of the proposed extraction method.

(2) The applicant shall describe the proposed process for the removal of any solvents added during the extraction process, if applicable.

(3) The applicant shall describe the safety measures proposed to protect the public and employees from dangers associated with extraction methods.

(4) The department may deny a license for methods that pose a significant risk to public health and safety.

(5) Each licensee shall adhere to the following extraction guidelines:

(a) ensure hydrocarbons n-butane, isobutane, propane, or heptane are of at least 99% purity;

(b) use a professional grade closed loop extraction system designed to recover the solvents, work in an environment with proper ventilation, and control each source of ignition where a flammable atmosphere is or may be present;

(c) ensure that any carbon dioxide (CO_2) gas extraction system uses a professional grade closed loop CO_2 gas extraction system where each vessel is rated to a minimum of six hundred pounds per square inch and CO_2 shall be at least 99% purity;

(d) ensure that closed loop hydrocarbon, alcohol, or CO_2 extraction systems are commercially manufactured and bear a permanently affixed and visible serial number; and

(e) upon request, provide the department with documentation showing that the system is:

(i) safe for its intended use; and

(ii) commercially manufactured.

(6) The applicant shall state whether they will be using derivative or synthetic cannabinoids and how they will produce or procure them.

R68-25-7. Processing Practices.

(1) The department incorporates by reference 21 CFR 111, 2007 version, Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements for a licensee engaged in processing a cannabinoid product intended for human consumption.

(2) The department incorporates by reference 21 CFR 507, 2015 version, Current Good Manufacturing Practice, Hazard analysis, and Risk-Based Preventive Controls for Food for Animals for a licensee engaged in processing cannabinoid products for animal consumption.

(3) A licensee that manufactures cannabinoid products for human consumption shall be registered with the Division of Regulatory Services within the department.

(4) A licensee shall use a standardized scale that is registered with the department when industrial hemp or cannabinoid products are:

(a) packaged for sale by weight; or

(b) bought and sold by weight.

(5) A licensee that also is a holder of a medical cannabis processing license shall adhere to the separation requirements of Section R68-28-5 to ensure physical separation of medical cannabis and industrial hemp in their facility.

(6) A licensee that manufactures cannabinoid products shall ensure that the facility meets basic cleanliness standards, including:

(a) buildings are of suitable size, design, and construction to permit unobstructed placement of equipment, orderly storage of materials, sanitary operation, and proper cleaning and maintenance;

(b) floors, walls, and ceilings are constructed of smooth, easily cleanable surfaces and are kept clean and in good repair;

(c) fixtures, ducts, and pipes are installed in such a manner that drip or condensate does not contaminate materials, utensils, contact surfaces of equipment, or finished products in bulk;

(d) lighting and ventilation are sufficient for the intended operation and comfort of personnel;

(e) water supply, washing and toilet facilities, floor drainage, and sewage system are adequate for sanitary operation and cleaning of facilities, equipment, and utensils, as well as to satisfy employee needs and facilitate personal cleanliness; and

(f) adequate filth and pest controls are in place.

R68-25-8. Required Reports.

(1) A licensee shall submit a completed Production Report on a form provided by the department by December 31st.

(2) The failure to submit a timely completed form may result in the denial of a renewal license.

R68-25-9. Additional Records.

(1) The licensee shall keep records of receipt for any industrial hemp material obtained including:

(a) the date of receipt;

(b) quantity received;

(c) an identifying lot number created by the licensee; and

(d) the seller's information including:

(i) the seller's department license number;

(ii) seller's contact information; and

(iii) the address of the facility or growing area from which the industrial hemp material was shipped.

(2) The licensee shall keep records that include the following information for each batch of industrial hemp material processed;

(a) the date of processing;

(b) the lot number of the material;

(c) the amount processed;

(d) the type of processing; and

(e) any lab test conducted on the industrial hemp material or product during the processing.

(3) The licensee shall keep records of any derivative or synthetic cannabinoids procured or produced and the products they are used for.

(4) The licensee shall keep records of any tests conducted with the identifying lot number.

(5) A licensee processing a cannabinoid product for human consumption shall keep records required by 21 CFR 111 including:

(a) written procedures for preventing microbial contamination;

(b) documentation of training of employees;

(c) cleaning logs of equipment;

(d) procedures for cleaning the physical facility;

(e) documentation of your qualification of supplier; and

(f) documentation of calibration of machinery.

(6) A licensee processing a cannabinoid product for animals shall keep records as required by 21 CFR 507 including:

(a) written procedures for preventing microbial contamination;

(b) documentation of training of employees;

(c) cleaning logs of equipment;

(d) procedures for cleaning the physical facility; and

(e) documentation of calibration of machinery.

(7) The licensee shall keep records of any products they have manufactured and the disposition of any cannabinoid material that leaves the facility.

(8) Records shall be maintained for a minimum of three years.

(9) Records are subject to review by department officials at the time of inspection or upon request.

R68-25-10. Testing.

(1) Cannabinoid products shall be tested for the following before being made available for retail sale:

(a) cannabinoid profile;

(b) solvents;

(c) pesticides;

(d) microbials;

(e) heavy metals; and

(f) foreign matter.

(2) The testing shall be completed by a third-party laboratory.

(3) The department shall conduct random testing of cannabinoid products and materials.

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

R68-25-11. Inspections and Sampling.

(1) The department shall have complete and unrestricted access to industrial hemp plants, seeds, and materials and any land, buildings, and other structures used to process industrial hemp.

(2) Samples of industrial hemp or cannabinoid product may be randomly taken from the facility by department officials.

(3) The department may review records kept in accordance with rule requirements.

(4) The department shall notify a licensee of test results greater than 0.3% THC.

(5) Any laboratory test with a result greater than 0.3% THC may be considered a violation of the terms of the license and may result in an immediate license revocation.

(6) Any laboratory test of a final product with a result of 1% THC or greater shall be turned over to the appropriate law enforcement agency and revocation of the processor license shall be immediate.

(7) The department shall notify the licensee of any solvents, metals, microbials, pesticides, or foreign matter found during testing.

(8) The presence of deleterious or harmful substances may be considered a violation of the terms of the license and may result in a license revocation.

R68-25-12. Storage of Industrial Hemp Material and Cannabinoid Products.

(1) A licensee may store industrial hemp material and cannabinoid products at their licensed facility provided:

(a) the licensee informs the department of the type and amount of the product being stored in the storage facility;

(b) the storage facility is outside of the public view; and

(c) the storage facility is secured with physical containment such as walls, fences, locks, and with an alarm system to provide maximum reasonable security.

(2) A Tier One or Tier Two licensee may store a raw concentrate that exceeds 0.3% THC provided:

(a) the concentrate is kept in a secure room;

(b) the concentrate is kept separate from other hemp and cannabinoid products;

(c) access to the concentrate is limited; and

(d) a record is kept of the amount of concentrate being stored and when it is being moved.

(3) Storage facilities shall be maintained in accordance with the practice adopted in Section R68-25-7.

(4) Storage facilities and records are subject to random inspection by department officials.

~~**R68-25-13. Transportation of Industrial Hemp Material.**~~

~~(1) Each movement of industrial hemp material shall include a transport manifest that includes the following information:~~

~~(a) a copy of the COA for each batch included in the shipment;~~

~~(b) the location of the sending and receiving parties;~~

~~(c) proof of registration or licensure for the sending and receiving parties; and~~

~~(d) a bill of lading for the transported material.~~

~~**R68-25-14. Restriction on the Sale and Transfer of Industrial Hemp Material.**~~

~~(1) A licensee shall not sell or transfer living plants, viable plants, viable seed, industrial hemp material to any person not licensed by the department or the USDA.~~

~~(2) A licensee may sell stripped stalks, fiber, and nonviable seed to the general public provided the material's THC level is less than 0.3%.~~

~~**R68-25-15. Renewal.**~~

~~(1) A licensee shall resubmit the documents required in Section R68-25-4, with updated information, before December 31st of the current year.~~

~~(2) The department may deny a renewal for an incomplete application.~~

~~(3) The department may deny renewal for any licensee who has violated any portion of this rule or state law.~~

~~**R68-25-16. Violation.**~~

~~(1) It is a violation to process industrial hemp or industrial hemp material on a site not approved by the department.~~

~~(2) It is a violation to process industrial hemp or industrial hemp material on a site within 1,000 feet of a community location.~~

~~(3) It is a violation to process industrial hemp or industrial hemp material from a source that is not approved by the department.~~

~~(4) A licensee shall not allow unsupervised public access to hemp processing facilities.~~

~~(5) It is a violation to employ a person under the age of 18 in the processing or handling of industrial hemp or cannabinoid products.~~

~~(6) It is a violation to sell a cannabinoid product to the general public or another licensee in violation of this section or state laws governing the final product.~~

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

~~(8) It is a violation to fail to keep records required by this rule or to fail to adhere to the notification requirements of this rule.~~

~~(9) It is a violation to use artificially derived cannabinoids in cannabinoid products without notifying the department.~~

~~(10) It is a violation for a licensee to allow an employee that has been convicted of a drug-related felony or its equivalent access to industrial hemp material or cannabinoid product that contains over 0.3% THC or has the potential to contain over 0.3% THC.~~

~~(11) It is a violation to have cannabinoid concentrate without a cannabinoid product processing license.~~

~~(12) It is a violation to store cannabinoid concentrate with greater than 0.3% THC concentration without following the requirements of Subsection R68-25-12(2).~~

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

~~(14) It is a violation to have non-compliant material.~~

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

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

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

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

~~(19) For holders of industrial hemp and medical cannabis processing licenses, it is a violation to operate a facility that does not adhere to the separation requirements of Section R68-28-5.~~

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

~~(21) It is a violation to deny the department the ability to take a sample of a cannabinoid product during an inspection or as part of an investigation.~~

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

~~**KEY: cannabidiol, hemp products, hemp extraction, hemp oil**~~
~~**Date of Last Change: October 17, 2023**~~
~~**Notice of Continuation: August 8, 2023**~~
~~**Authorizing, and Implemented or Interpreted Law: 4-41-103(4)]**~~

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	**R68-26**	**Filing ID: 56361**

Agency Information

1. Department:	Agriculture and Food
Agency:	Plant Industry
Building:	TSOB South Building, Floor 2
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO Box 146500
City, state and zip:	Salt Lake City, UT 84114-6500
Contact persons:	

Name:	**Phone:**	**Email:**
Amber Brown	385-245-5222	ambermbrown@utah.gov
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Kelly Pehrson	385-977-2147	kwpehrson@utah.gov

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

General Information

2. Rule or section catchline:

R68-26. Cannabinoid Product Registration and Labeling

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

This rule is being repealed so it can be simultaneously reenacted under a new title specific to medical cannabis and industrial hemp, Title R66.

4. Summary of the new rule or change:

This rule is repealed in its entirety so it can be reenacted under a new title specific to medical cannabis and industrial hemp.

The substantive content will remain the same under new Rule R66-35.

(EDITOR'S NOTE: The proposed new Rule R66-35 is under ID No. 56362 in this issue, April 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 proposed repeal does not have a fiscal impact to the state because the rule text is not changing between the repeal and the new rule.

It is reenacted as new Rule R66-35.

B) Local governments:

Local governments will not be impacted because they do not participate in the medical cannabis program.

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

This proposed repeal does not have a fiscal impact to small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed repeal does not have a fiscal impact to non-small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed repeal does not have a fiscal impact to other persons because the rule text is not changing between the repeal and the new rule.

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

Compliance costs are not impacted because the substance of the rule is not changing 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

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

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

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

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024
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 W. Buttars, Commissioner	**Date:**	03/07/2024

R68. Agriculture and Food, Plant Industry.

[~~R68-26. Cannabinoid Product Registration and Labeling.~~

~~R68-26-1. Authority and Purpose.~~

~~Pursuant to Subsections 4-41-103(4) and 4-41-403(1), this rule establishes the requirements for labeling and registration of cannabinoid products made from and containing industrial hemp.~~

~~R68-26-2. Definitions.~~

~~(1) "Cannabinoid product" means the same as the term is defined in Subsection 4-41-102(6).~~

~~(2) "Cannabinoid product class" means group of cannabinoid products:~~

~~(a) that have all ingredients in common; and~~

~~(b) are produced by or for the same company.~~

~~(3) "Cannabinoid product THC level" means a combined concentration of total THC and any THC analog of less than 0.3% on a dry weight basis if laboratory testing confirms a result within a measurement of uncertainty that includes the combined concentration of 0.3%.~~

~~(4) "CBD" or "Cannabidiol" means the cannabinoid identified as CAS# 13956-29-1.~~

~~(5) "Certificate of Analysis" (COA) means a document produced by a testing laboratory listing the quantities of the various analytes for which testing was performed.~~

~~(6) "Conventional Food" means:~~

~~(a) an article used for food or drink for human consumption or the components of the article; or~~

~~(b) chewing gum or chewing gum components.~~

~~(7) "Department" means the Utah Department of Agriculture and Food.~~

~~(8) "Industrial Hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by weight.~~

~~(9) "Label" means the display of each written, printed, or graphic matter upon the immediate container or statement accompanying a cannabinoid product.~~

~~(10) "Non-compliant material" means:~~

~~(a) a hemp plant that does not comply with this rule, including a cannabis plant with a concentration of 0.3% tetrahydrocannabinol or greater by dry weight; and~~

~~(b) a cannabinoid product, chemical, or compound with a concentration that exceeds the cannabinoid product THC level.~~

~~(11) "Person" means an individual, partnership, association, firm, trust, limited liability company, or corporation or any employees of such.~~

~~(12) "Primary cannabinoid" means the three cannabinoids contained in the greatest quantity in the product that are each present above 0.5%.~~

~~(13) "Registrant" means a person who manufactures, packages, or distributes cannabinoid product and assumes responsibility for the compliance of the product registration.~~

~~(14) "THC" or "Tetrahydrocannabinol" means delta-9-tetrayhdrocannabinol, the cannabinoid identified as CAS # 1972-08-3.~~

~~(15)(a) "THC analog" means a substance that is structurally or pharmacologically substantially similar to, or is represented as being similar to, delta-9-THC.~~

~~(b) "THC analog" does not include the following substances or the naturally occurring acid forms of the following substances:~~

~~(i) cannabichromene (CBC), the cannabinoid identified as CAS# 20675-51-8;~~

~~(ii) cannabicyclol (CBL), the cannabinoid identified as CAS# 21366-63-2;~~

~~(iii) cannabidiol (CBD), the cannabinoid identified as CAS# 13956-29-1;~~

~~(iv) cannabidivarol (CBDV), the cannabinoid identified as CAS# 24274-48-4;cannabidiol (CBD), the cannabinoid identified as CAS# 13956-29-1;~~

~~(v) cannabielsoin (CBE), the cannabinoid identified as CAS# 52025-76-0;~~

~~(vi) cannabigerol (CBG), the cannabinoid identified as CAS# 25654-31-3;~~

~~(vii) cannabigerovarin (CBGV), the cannabinoid identified as CAS# 55824-11-8;~~

~~(viii) cannabinol (CBN), the cannabinoid identified as CAS# 521-35-7;~~

~~(ix) cannabivarin (CBV), the cannabinoid identified as CAS# 33745-21-0; or~~

~~(x) delta-9-tetrahydrocannabivarin (THCV), the cannabinoid identified as CAS# 31262-37-0.~~

~~(16) "Third-party laboratory" means a laboratory with no direct interest in a grower or processor of industrial hemp or cannabinoid products that is capable of performing mandated testing utilizing validated methods.~~

~~R68-26-3. Product Registration.~~

~~(1) Each cannabinoid product distributed or available for distribution in Utah shall be officially registered annually with the department.~~

(2) Application for registration shall be made to the department on a form provided by the department including the following information:

(a) the name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicants;

(b) the name of the product;

(c) the type and use of the product;

(d) a complete copy of the label as it will appear on the product in a legible format; and

(e) if the product has been assigned a National Drug Code in accordance with 21 CFR 207.33, the applicant shall provide the National Drug Code number.

(3) The application shall include a certificate of analysis from a third party laboratory for the product in compliance with Section R68-26-4. The certificate of analysis shall show the cannabinoid profile of the product by percentage of mass.

(4) A registration fee per product, as set forth in the fee schedule approved by the Legislature, shall be paid to the department with the submission of the application.

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

(6) A new registration is required for any of the following:

(a) any change in the cannabinoid product ingredients;

(b) any change to the directions for use; and

(c) any change of name for the product.

(7) Other changes may not require a new registration but the registrant shall submit copies of each label change to the department as soon as they are effective.

(8) The registrant is responsible for the accuracy and completeness of information submitted.

(9) A registration is good for one calendar year from the date of registration and shall be renewed through payment of an annual renewal fee before expiration.

(10) A cannabinoid product that has been discontinued shall continue to be registered in the state until the product is no longer available for distribution.

(11) A late fee shall be assessed for a renewal of a cannabinoid product registration submitted after the day of expiration and shall be paid before the registration renewal is issued.

(12) The department may not register a cannabinoid product if the product:

(a) uses the cannabinoid as a food additive; or

(b) is represented for use as a conventional food, with the exception of:

(i) a gummy if the gummy is shaped as a gelatinous cube or gelatinous rectangular cuboid or in another basic geometric shape and not in a shape that could be considered appealing to children such as a star shape, fruit, or animal shape; or

(ii) a liquid suspension under two ounces.

R68-26-4. Certificate of Analysis.

(1) Testing shall be conducted on the product in its final form for:

(a) the cannabinoid profile by percentage of mass, performed by the Department's analytical laboratory;

(b) solvents;

(c) pesticides;

(d) microbials;

(e) heavy metals; and

(f) mycotoxins.

(2) The test results required in Subsection R68-26-4(1) shall be reported in accordance with the requirements for a cannabinoid product in Rule R68-37 including the specified units of measure.

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

(a) the batch identification number;

(b) the date received;

(c) the date of completion;

(d) the method of analysis for each test conducted; and

(e) proof that the certificate of analysis is connected to the product.

R68-26-5. Label Requirements.

(1) The label of a cannabinoid product shall contain the following information, legibly displayed:

(a) product name or common name, on the front of the label;

(b) brand name, on the front of the label;

(c) the size of the container or net count of individual items, on the front of the label;

(d) net weight;

(e) the suggested use of the product, including serving size if the product is intended for consumption;

(f) list of ingredients, including:

(i) the amount of any advertised cannabinoid listed as present on the COA;

(ii) the amount of any primary cannabinoid listed as present on the COA; and

(iii) the amount of any THC or any THC analog listed as present on the COA;

(g) list of allergens;

(h) manufacturer, packer, or distributor name and address; and

(i) batch number.

(2) A fact panel may be included on the product label if it is not identified as a Drug Fact Panel or Nutritional Fact Panel.

(3) The label of each product intended for human consumption or intended to be vaporized for inhalation shall include the following text, prominently displayed: "This product has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease."

(4) Cannabinoid products containing a cannabinoid other than CBD produced for absorption by humans shall contain the following text, prominently displayed: "Warning - The safety of this product has not been determined."

(5) Notwithstanding Subsection R68-26-5(1) a cannabinoid product produced for human use that has a National Drug Code issued shall be labeled in accordance with 21 CFR 201.66.

(6) In addition to the requirements of Subsections R68-26-5(1) through R68-26-5(5) a cannabinoid product shall have on the label a scannable barcode, QR code, or web address with an easily located certificate of analysis for the batch identified, containing the information required in Section R68-26-4.

(7) Cannabinoid products may not contain medical claims on the label unless the product has been registered with the FDA and is labeled in accordance with Subsection R68-26-5(5).

(8) Cannabinoid product labeling shall clearly show that the product contains material derived from industrial hemp and not cannabis or medical cannabis.

(9) Cannabinoid product labeling may not:

(a) have any likeness bearing resemblance to a cartoon character or fictional character; or

(b) appear to imitate a food or other product that is typically marketed toward or appealing to children.

(10) A cannabinoid product that is designed to be inhaled shall include a warning on the label regarding the possible health effects of inhaling cannabinoid products.

(11) The label of cannabinoid products intended for oral consumption by animals shall include the amount of cannabinoids per serving determined by weight of the animal.

(12) The label of cannabinoid products intended for consumption by animal may not:

(a) contain any feed claims;

(b) be labeled as food; or

(c) contain any Food and Drug Administration evaluation statement.

(13) A cannabinoid product is considered misbranded if its label is false or misleading in any way.

R68-26-6. Inspection and Testing.

(1) The department shall conduct randomized inspection of cannabinoid products distributed or available for distribution in the state for compliance with this rule.

(2) The department shall periodically sample, analyze, and test cannabinoid products distributed within the state for compliance with registration and labeling requirements and the certificate of analysis.

(3) The department may conduct inspection of cannabinoid products distributed or available for distribution for any reason the department deems necessary.

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

R68-26-7. Violation.

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

(2) Cannabinoid products not meeting the labeling requirements shall be considered misbranded.

(3) Cannabinoid products shall be considered falsely advertised if they do not meet the labeling requirements of this rule.

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

(5) It is a violation to distribute or market industrial hemp flower as a final product.

(6) It is a violation to distribute or market a cannabinoid product that contains greater than 0.3% THC.

(7) It is a violation to distribute or market a cannabinoid product that has not been tested as required by Rule R68-29.

(8) It is a violation to distribute or market a cannabinoid product as a conventional food product, unless the product is exempted under Subsection R68-26-3(12)(b).

(9) It is a violation to distribute or market a cannabinoid product as a food additive.

(10) It is a violation to distribute or market a cannabinoid product that is marketed toward or is appealing to children.

(11) It is a violation to market a cannabinoid product as cannabis or medical cannabis.

(12) It is a violation to submit a fraudulent COA to the department.

R68-26-8. Violation Categories.

(1) Public Safety Violations: Each person shall be fined $3,000-$5,000 per violation. This category is for violations that present a direct threat to public health or safety including:

(a) industrial hemp sold to an unlicensed source;

(b) industrial hemp purchased from an unlicensed source;

(c) refusal to allow inspection;

(d) failure to comply with labeling requirements;

(e) failure to comply with testing requirements;

(f) possessing, manufacturing, or distributing a cannabinoid product that a person knows or should know appeals to children;

(g) marketing a cannabinoid product that makes a medical claim; or

(h) engaging in or permitting a violation of the Title 4, Chapter 41, Hemp and Cannabinoid Act that amounts to a public safety violation as described in this subsection.

(2) Regulatory Violations: Each person shall be fined $1,000-$5,000 per violation. This category is for violations involving this rule and other applicable state rules under Title R68 including:

(a) failure to register a cannabinoid product;

(b) failure to provide a certificate of analysis as required by Section R68-26-4;

(c) failure to keep and maintain records; or

(d) engaging in or permitting a violation of Title 4, Chapter 41a, Hemp and Cannabinoid Act or this rule that amounts to a regulatory violation as described in this subsection.

(3) Licensing Violations: Each person shall be fined $500-$5,000 per violation. This category is for violations involving licensing requirements including:

(a) engaging in or permitting a violation of this rule, other applicable rules under Title R68, or Title 4, Chapter 41, Hemp and Cannabinoid Act, that amounts to a licensing violation; or

(b) failure to respond to violations.

(4) The department shall calculate penalties based on the level of violation and the adverse effect or potential adverse effect at the time of the incidents giving rise to the violation.

(5) The department may enhance or reduce the penalty based on the seriousness of the violation.

KEY: CBD labeling, CBD products, cannabinoid product registration
Date of Last Change: October 17, 2023
Notice of Continuation: August 8, 2023
Authorizing, and Implemented or Interpreted Law: 4-41-403(1); 4-41-402(2); 4-41-103(4)]

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	**R68-27**	**Filing ID: 56339**

Agency Information

1. Department:	Agriculture and Food
Agency:	Plant Industry
Building:	TSOB South Bldg, Floor 2

Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	**Phone:**	**Email:**
Amber Brown	385-245-5222	ambermbrown@utah.gov
Brandon Forsyth	801-710-9945	bforsyth@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R68-27. Cannabis Cultivation

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

This rule is being repealed so it can be simultaneously reenacted under a new title specific to medical cannabis and industrial hemp, Title R66.

4. Summary of the new rule or change:

This rule is repealed in its entirety so it can be reenacted under a new title specific to medical cannabis and industrial hemp.

The substantive content will remain the same under new Rule R66-1.

(EDITOR'S NOTE: The proposed new Rule R66-1 is under ID No. 56340 in this issue, April 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 proposed repeal does not have a fiscal impact to the state because the rule text is not changing between the repeal and the new rule.

It is reenacted as new Rule R66-1.

B) Local governments:

Local governments will not be impacted because they do not participate in the medical cannabis program.

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

This proposed repeal does not have a fiscal impact to small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed repeal does not have a fiscal impact to non-small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed repeal does not have a fiscal impact to other persons because the rule text is not changing between the repeal and the new rule.

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

Compliance costs are not impacted because the substance of the rule is not changing 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

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

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

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

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

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024

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 W. Buttars, Commissioner	**Date:**	03/07/2024

R68. Agriculture and Food, Plant Industry.
[~~R68-27. Cannabis Cultivation.~~
~~R68-27-1. Authority and Purpose.~~

~~Pursuant to Subsections 4-41a-103(5), 4-41a-204(2)(e), 4-41a-302(3)(b)(ii), 4-41a-404(3), 4-41a-405(2)(b)(iv), 4-41a-701(3), 4-41a-801(1), and 4-2-103(1)(i), this rule establishes the application process, qualifications, and requirements to obtain and maintain a cannabis cultivation facility license.~~

~~R68-27-2. Definitions.~~

~~As used in this rule:~~

~~(1) "Applicant" means any person or business entity who applies for a cannabis cultivation facility license.~~

~~(2a) "Cannabis" means any part of a marijuana plant.~~

~~(b) "Cannabis" does not mean, for purposes of this rule, industrial hemp.~~

~~(3) "Cannabis cultivation facility" means a person that:~~

~~(a) possesses cannabis;~~

~~(b) grows or intends to grow cannabis; and~~

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

~~(4) "Cannabis cultivation facility agent registration card" means a registration card that the department issues that:~~

~~(a) authorizes an individual to act as a cannabis production establishment agent; and~~

~~(b) designates the type of cannabis production establishment for which an individual may act as an agent.~~

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

~~(6) "Indoor cannabis cultivation" means cultivation of cannabis within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors.~~

~~(7) "Lot" means the quantity of:~~

~~(a) flower produced on a particular date and time, following clean up until the next clean up during which the same materials are used; or~~

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

~~(8) "Outdoor cannabis cultivation" means an open or cleared ground fully enclosed at the perimeter by a securable, sight obscure wall or fence at least eight feet high.~~

~~R68-27-3. Cannabis Cultivation Facility License.~~

~~(1) A cannabis cultivation facility license allows the licensee to propagate, cultivate, harvest, trim, dry, cure, and package cannabis into lots for sale or transfer to a cannabis production facility.~~

~~(2) A cannabis cultivation facility may produce and sell cannabis plants, seed, and plant tissue culture to other licensed cannabis cultivation facilities.~~

~~(3) A complete application shall include the required fee, statements, forms, diagrams, operation plans, and other applicable documents required in the application packet to be accepted and processed by the department.~~

~~(4) Before approving an application, the department may contact any applicant and request additional supporting documentation or information.~~

~~(5) Before issuing a cannabis cultivation facility license, the department shall inspect the proposed premises to determine if the applicant complies with state laws and rules.~~

~~(6) The department may conduct face-to-face interviews with an applicant if needed to determine the best qualified applicant for the number of cannabis cultivation facility licenses that will be issued.~~

~~(7) The cannabis cultivation facility license shall expire on December 31st.~~

~~(8) A cannabis production establishment license is not transferable or assignable. If the ownership of a cannabis production establishment changes by 50% or more, the requirements of Subsection 4-41a-201(15) shall be followed.~~

~~R68-27-4. Cannabis Cultivation Facility Requirements.~~

~~(1) A cannabis cultivation facility operating plan shall contain a blueprint or diagram of the facility containing the following information:~~

~~(a) for indoor cannabis cultivation, the square footage of the area where cannabis is to be propagated;~~

~~(b) for indoor cannabis cultivation, the square footage of the area where cannabis is to be grown;~~

~~(c) the square footage of the area where cannabis is to be harvested;~~

~~(d) the area where cannabis is to be dried, trimmed, and cured;~~

~~(e) the square footage of the area where cannabis is to be packaged for wholesale;~~

~~(f) the total square footage of the cultivation facility;~~

~~(g) the square footage and location of areas to be used as a storeroom;~~

~~(h) the location of the toilet facilities and hand washing facilities;~~

~~(i) the location of a break room and location of personal belonging lockers; and~~

~~(j) the location of the area to be used for loading and unloading of cannabis product for transportation.~~

~~(2) For outdoor cannabis cultivation, the operating plan shall contain a detailed aerial photograph of the area on which the following information is shown:~~

~~(a) the area where cannabis to be propagated; and~~

~~(b) the area where cannabis is to be grown.~~

~~(3) A cannabis cultivation facility operating plan shall detail the drying and curing methods to be used by the cannabis cultivation facility.~~

~~(4) An outdoor cannabis cultivation facility shall outline the measures to be taken to ensure that product is kept from deterioration and contamination.~~

~~(5) A cannabis cultivation facility shall have written emergency procedures to be followed if:~~

~~(a) fire;~~

~~(b) chemical spill; or~~

~~(c) another emergency at the facility.~~

~~(6) A cannabis cultivation facility operating plan shall include:~~

~~(a) a pest management plan;~~

~~(b) a description of when and how fertilizers are to be applied during the production process;~~

~~(c) procedures for water usage and waste water disposal; and~~

~~(d) a waste disposal plan.~~

~~(7) A cannabis cultivation facility shall have a written plan to handle potential recall and destruction of cannabis because of contamination.~~

~~(8) A cannabis cultivation facility shall use a standardized scale that is registered with the department when cannabis is:~~

~~(a) packaged for sale by weight;~~

~~(b) bought and sold by weight; or~~

~~(c) weighed for entry into the inventory control system.~~

~~(9) A cannabis cultivation facility shall ensure that sanitary conditions are maintained on the premises, including ensuring proper and timely removal of litter and waste.~~

~~(10) A cannabis cultivation facility shall compartmentalize each area in the facility based on function.~~

~~(11) A cannabis cultivation facility shall limit access to the compartments to appropriate cannabis cultivation facility agents.~~

~~R68-27-5. Indoor and Outdoor Cannabis Cultivation Limitations.~~

~~(1) A cannabis cultivation facility that cultivates cannabis only indoors may use no more than 100,000 square feet for cultivation.~~

~~(2) A cannabis cultivation facility that cultivates cannabis only outdoors may use no more than four acres for cultivation.~~

~~(3) Pursuant to Subsection 4-41a-204(2)(e), a cannabis cultivation facility that uses a combination of indoor and outdoor cultivation shall be subject to the following formula:~~

~~(a) the cannabis cultivation facility may use no more than a total of two acres outdoors and 50,000 square feet indoors for cultivation; or~~

~~(b) the cannabis cultivation facility may use less than two acres outdoors or 50,000 square feet indoors for cultivation, but may not exceed the indoor or outdoor limit.~~

~~R68-27-6. Security Requirements.~~

~~(1) At a minimum, each cannabis cultivation facility shall have a security alarm system on each perimeter entry point and perimeter window.~~

~~(2) At a minimum, a licensed cannabis cultivation facility shall have a complete video surveillance system:~~

~~(a) with a minimum camera resolution of 640 x 470 pixels or pixel equivalent for analog; and~~

~~(b) that retains footage for at least 45 days.~~

~~(3) Cameras at a cannabis cultivation facility shall be fixed, record continuously, and placement shall allow for the clear and certain identification of any person or activities in a controlled area.~~

~~(4) Controlled areas include:~~

~~(a) each entrance and exit, or ingress and egress vantage point;~~

~~(b) each area within an indoor or outdoor room or area where cannabis is propagated, grown, harvested, dried, or trimmed;~~

~~(c) each area where cannabis is stored; and~~

~~(d) each area where cannabis waste is being moved, processed, stored, or destroyed.~~

~~(5) If a cannabis cultivation facility stores footage locally, the surveillance system storage device shall be secured in the facility in a lockbox, cabinet, closet, or secured in another manner to protect from employee tampering or criminal theft.~~

~~(6) If a cannabis cultivation facility stores footage on a remote server, access shall be restricted to protect from employee tampering.~~

~~(7) Any gate or entry point must be lighted in low-light conditions.~~

~~(8) Visitors to a cannabis cultivation facility shall be required to have a properly displayed identification badge issued by the facility while on the premises of the facility.~~

~~(9) Cannabis cultivation facility visitors shall be escorted by a cannabis cultivation facility agent while in the facility.~~

~~(10) A cannabis cultivation facility shall keep and maintain a log showing:~~

(a) the full name of each visitor entering the facility;
(b) the badge number issued;
(c) the time of arrival;
(d) the time of departure; and
(e) the purpose of the visit.
(11) The visitor log shall be maintained by the cannabis cultivation facility for a minimum of one year.
(12) The cannabis cultivation facility shall make visitor log available to the department upon request.

R68-27-7. Inventory Control.
(1) Each cannabis plant that reaches eight inches in height with a root ball shall be issued a unique identification number in the inventory control system, which follows the plant through the phases of production.
(2) Each cannabis plant, lot of usable cannabis trim, leaves, and other plant matter, test lot, and harvest lot shall be issued a unique identification number in the inventory control system.
(3) Unique identification numbers cannot be reused.
(4) Each cannabis plant, lot of usable cannabis trim, leaves, and other plant matter, cannabis product, test lot, harvest lot, and process lot that has been issued a unique identification number shall have a physical tag with the unique identification number.
(5) The tag shall be legible and placed in a position that can be clearly read and kept free from dirt and debris and include the following information:
(a) unique identification number;
(b) batch or lot number;
(c) strain;
(d) facility name and license number; and
(e) date entered into the inventory control system.
(6) The following shall be reconciled in the inventory control system at the close of business each day:
(a) movement of seedling or clone to the vegetation production area;
(b) when plants are partially or fully harvested or destroyed;
(c) when cannabis is being transported to other facilities;
(d) samples used for testing and the testing results;
(e) a complete inventory of cannabis clones, plants, trim, or other plant material;
(f) the weight of harvested cannabis plants immediately after harvest;
(g) the weight and disposal of post-harvest waste materials;
(h) the identity of the individual who disposed of the waste and the location of waste receptacle; and
(i) theft or loss, or suspected theft or loss, of cannabis.
(7) A receiving cannabis cultivation facility shall document in the inventory tracking system any cannabis received, and any differences between the quantity specified in the transport manifest and the quantities received.
(8) For plants under eight inches, the cultivation facility shall keep record of:
(a) the number of cannabis seeds or cuttings planted;
(b) the date they were planted;
(c) the date the plants were moved into the vegetation area and tagged;
(d) the strain of the seeds or cuttings;
(e) the number of plants grown to maturity;
(f) the number of plants disposed of; and
(g) the date of disposal.

R68-27-8. Cannabis Cultivation Facility Agents.
(1) A prospective cannabis cultivation facility agent shall apply to the department for a cannabis cultivation facility agent registration card on a form provided by the department.
(2) An application is not considered complete until the background check has been completed, the registration fee has been paid, and the prospective agent has submitted the required training certificate.
(3) The cannabis cultivation facility agent registration card shall contain:
(a) the agent's full name;
(b) identifying information; and
(c) a photograph of the agent.
(4) A cannabis cultivation facility is responsible to ensure that each cannabis cultivation facility agent has received any task specific training as outlined in the operating plan submitted to the department.
(5) A cannabis cultivation facility agent shall have a properly displayed identification badge which has been issued by the department while on the facility premises or while engaged in the transportation of cannabis.
(6) Each cannabis cultivation facility agent shall have their state issued identification in their possession to certify the information on their badge is correct.
(7) Each cannabis cultivation facility shall maintain a list of each employee that holds a cannabis cultivation facility agent registration card and provide the list to the department upon request.

R68-27-9. Pesticide and Fertilizer Use.
(1) A cannabis cultivation facility shall maintain:
(a) the material safety data sheet for any pesticide, fertilizer, or other agricultural chemical used in the production of cannabis which shall be accessible to any cannabis cultivation facility agent;
(b) the original label or a copy for each pesticide, fertilizer, or other agricultural chemical used in the production of cannabis; and
(c) a log of each pesticide, fertilizer, or other agricultural chemical used in the production of cannabis.
(2) Pesticides approved by the department may be used in the production, processing, and handling of cannabis.
(3) Each pesticide, fertilizer, and other agricultural chemical is to be stored in a separate location apart from cannabis.
(4) Pesticides shall be used consistent with the label requirements.
(5) Fertilizer registered with the department under Title 4, Chapter 13, the Utah Fertilizer Act, may be used in the production and handling of cannabis.
(6) Cannabis exposed to unauthorized pesticide, soil amendment, or fertilizer is subject to destruction at the cost of the cannabis cultivation facility.

R68-27-10. Transportation.
(1) A printed transport manifest shall accompany each transport of cannabis.
(2) The manifest shall contain the following information:
(a) the cannabis production establishment address and cannabis production establishment license number of the departure location;
(b) the physical address and cannabis production establishment license number of the receiving location;
(c) the strain name, quantity by weight, and unique identification number of each cannabis material to be transported;

(d) the date and time of departure;
(e) the estimated date and time of arrival; and
(f) the name and signature of each cannabis production establishment agent accompanying the cannabis.
(3) The transport manifest may not be voided or changed after departing from the original cannabis cultivation facility.
(4) A copy of the transport manifest shall be given to the receiving cannabis production establishment.
(5) The receiving cannabis establishment shall ensure that the cannabis material received is as described in the transport manifest and shall record the amount received for each strain into the inventory control system.
(6) The receiving cannabis establishment shall document at the time of receipt any differences between the quantity specified in the transport manifest and the quantities received in the inventory control system.
(7) During transport a cannabis cultivation facility shall ensure the cannabis is:
(a) shielded from the public view;
(b) secured; and
(c) temperature controlled if perishable.
(8) A cannabis cultivation facility shall contact the department within 24 hours if a vehicle transporting cannabis is involved in an accident that involves product loss.
(9) Only the registered agents of the cannabis cultivation facility may occupy a transporting vehicle.

R68-27-11. Recall Protocol.
(1) The department may initiate a recall of cannabis or cannabis products if:
(a) evidence exists that pesticides not approved by the department are present on or in the cannabis or cannabis product;
(b) evidence exists that residual solvents are present on or in cannabis or cannabis product;
(c) evidence exists that harmful contaminants are present on or in cannabis or cannabis product; or
(d) the department believes or has reason to believe the cannabis or cannabis product is unfit for human consumption.
(2) A cannabis cultivation facility's recall plan shall include, at a minimum:
(a) designation of at least one member of the staff who serves as the recall coordinator;
(b) procedures for identifying and isolating product to prevent or minimize distribution to patients;
(c) procedures to retrieve and destroy product; and
(d) a communications plan to notify those affected by the recall.
(3) The facility must track the total amount of affected cannabis or cannabis product and the amount of affected cannabis or cannabis product returned to the facility as part of the recall.
(4) A cannabis cultivation facility shall coordinate the destruction of the cannabis or cannabis product with the department and allow the department to oversee the destruction of the affected product.
(5) The department shall periodically check on the progress of the recall until the department declares an end to the recall.
(6) A cannabis cultivation facility shall notify the department before initiating a voluntary recall.

R68-27-12. Minimum Requirements for the Storage and Handling of Cannabis.
(1) Storage areas shall provide adequate lighting, sanitation, temperature, humidity, space, equipment, and security conditions for the storage of cannabis.
(2) Stored cannabis shall be at least six inches off the ground.
(3) Cannabis shall be stored away from other chemicals, lubricants, pesticides, fertilizers, or other potential contaminants.
(4) Cannabis that is outdated, damaged, deteriorated, misbranded, adulterated shall be stored separately by physical barrier until it is destroyed.

R68-27-13. Cannabis Waste Disposal.
(1) Solid and liquid wastes generated during cannabis cultivation shall be stored, managed, and disposed of in accordance with applicable state law.
(2) Wastewater generated during the cannabis production and processing shall be disposed of in compliance with applicable state law.
(3) Cannabis waste generated from the cannabis plant, trim, and leaves is not considered hazardous waste unless it has been treated or contaminated with a solvent, or pesticide.
(4) Cannabis waste shall be made unusable before leaving the cannabis cultivation facility.
(5) Cannabis waste not designated as hazardous, shall be made unusable by grinding and incorporating the cannabis plant waste with other ground materials so the resulting mixture is at least 50% non-cannabis waste by volume, or by other methods approved by the department before implementation.
(6) Materials used to grind with cannabis fall into two categories:
(a) compostable; or
(b) non-compostable.
(7) Compostable waste is cannabis waste to be disposed of as compost or in another organic waste method mixed with:
(a) food waste;
(b) yard waste; or
(c) vegetable-based grease or oils.
(8) Non-compostable waste is cannabis waste to be disposed of in a landfill or another disposal method, such as incineration, mixed with:
(a) paper waste;
(b) cardboard waste;
(c) plastic waste; or
(d) soil.
(9) Cannabis waste includes:
(a) cannabis plant waste including roots, stalks, leaves, and stems;
(b) excess cannabis or cannabis products from any quality assurance testing;
(c) cannabis or cannabis products that fail to meet testing requirements; and
(d) cannabis or cannabis products subject to a recall.

R68-27-14. Change in Operation Plans.
(1) A cannabis cultivation facility shall submit a notice, on a form provided by the department, before making any changes to:
(a) ownership or financial backing of the facility;

~~(b) the facility's name;~~
~~(c) a change in location;~~
~~(d) any modification, remodeling, expansion, reduction or physical, non-cosmetic alteration of a facility; or~~
~~(e) change in square footage or acreage of cannabis intended to be cultivated.~~
~~(2) A cannabis cultivation facility may not implement changes to the approved operation plan without department approval.~~
~~(3) The department shall approve of requested changes unless approval would lead to a violation of the applicable laws and rules of the state.~~
~~(4) The department shall specify the reason for the denial of approval for a change to the operation plan.~~

~~R68-27-15. Renewals.~~
~~(1) A cannabis cultivation facility shall submit a notice of intent to renew the cannabis cultivation facility license and the licensing fee to the department by December 1st.~~
~~(2) If the cannabis cultivation facility licensing fee and intent to renew the cannabis cultivation facility license are not submitted by December 31st the cannabis cultivation facility licensee may not continue to operate.~~
~~(3) Pursuant to Section 4-41a-03, the board shall renew a cannabis cultivation facility license unless they identify a significant violation of the applicable laws and rules of the state.~~

~~R68-27-16. Violations Categories.~~
~~(1) Public Safety Violations: $3,000 - $5,000 per violation. This category is for violations that present a direct threat to public health or safety including:~~
~~(a) use of unapproved pesticide or unapproved agricultural soil amendment;~~
~~(b) cannabis sold to an unlicensed source;~~
~~(c) cannabis purchased from an unlicensed source;~~
~~(d) refusal to allow inspection;~~
~~(e) failure to comply with testing requirements;~~
~~(f) a test result for high pesticide residue in the cannabis produced or cannabis product;~~
~~(g) unauthorized personnel on the premises;~~
~~(h) permitting criminal conduct on the premises; or~~
~~(i) engaging in or permitting a violation of the Title 4, Chapter 41a, Cannabis Production Establishments.~~
~~(2) Regulatory Violations: $1,000 - $5,000 per violation. This category is for violations involving this rule and other applicable state rules:~~
~~(a) failure to maintain alarm and security systems;~~
~~(b) failure to keep and maintain records for at least two years;~~
~~(c) failure to maintain traceability;~~
~~(d) failure to follow transportation requirements;~~
~~(e) failure to follow the waste and disposal requirements;~~
~~(f) engaging in or permitting a violation of Title 4, Chapter 41a, Cannabis Production Establishments or this rule; or~~
~~(g) failure to maintain standardized scales.~~
~~(3) Licensing Violations: $500- $5,000 per violation. This category is for violations involving licensing requirements including:~~
~~(a) an unauthorized change to the operating plan;~~
~~(b) failure to notify the department of changes to the operating plan;~~
~~(c) failure to notify the department of changes to financial or voting interests of greater than 2%;~~
~~(d) failure to follow the operating plan as approved by the department;~~
~~(e) engaging in or permitting a violation of this rule or Title 4, Chapter 41a, Cannabis Production Establishments; or~~
~~(f) failure to respond to violations.~~
~~(4) The department shall calculate penalties based on the level of violation and the adverse effect or potential adverse effect at the time of the incidents giving rise to the violation.~~
~~(5) The department may consider enhancing or reducing the penalty based on the seriousness of the violation.~~

~~KEY: marijuana, cannabis cultivation facility~~
~~Date of Last Change: June 13, 2023~~
~~Authorizing, and Implemented or Interpreted Law: 4-41a-404(3); 4-41a-103(5); 4-41a-204(2)(c); 4-41a-302(3)(b)(ii); 4-41a-701(2); 4-41a-405(2)(b)(iv); 4-2-103(1)(i); 4-41a-801(1)~~]

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	**R68-28**	**Filing ID: 56364**

Agency Information

1. Department:	Agriculture and Food
Agency:	Plant Industry
Building:	TSOB South Bldg, Floor 2
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO Box 146500
City, state and zip:	Salt Lake City, UT 84114-6500

Contact persons:		
Name:	**Phone:**	**Email:**
Amber Brown	385-245-5222	ambermbrown@utah.gov
Brandon Forsyth	801-710-9945	bforsyth@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov

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

General Information

2. Rule or section catchline:
R68-28. Cannabis Processing

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

This rule is being repealed so it can be simultaneously reenacted under a new title specific to medical cannabis and industrial hemp, Title R66.

4. Summary of the new rule or change:

This rule is repealed in its entirety so it can be reenacted under a new title specific to medical cannabis and industrial hemp.

The substantive content will remain the same under new Rule R66-2.

(EDITOR'S NOTE: The proposed new Rule R66-2 is under ID No. 56365 in this issue, April 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 proposed repeal does not have a fiscal impact to the state because the rule text is not changing between the repeal and the new rule.

It is reenacted as new Rule R66-2.

B) Local governments:

Local governments will not be impacted because they do not participate in the medical cannabis program.

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

This proposed repeal does not have a fiscal impact to small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed repeal does not have a fiscal impact to non-small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed repeal does not have a fiscal impact to other persons because the rule text is not changing between the repeal and the new rule.

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

Compliance costs are not impacted because the substance of the rule is not changing 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

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

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

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

Citation Information

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

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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024
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 W. Buttars, Commissioner	**Date:**	03/08/2024

R68. Agriculture and Food, Plant Industry.

[~~R68-28. Cannabis Processing.~~

~~R68-28-1. Authority and Purpose.~~

~~Pursuant to Subsections 4-41a-103(5), 4-41a-302(3)(b)(ii), 4-41a-404(3), 4-41a-405(2)(b)(iv), 4-41a-701(3), 4-41a-801(1), and 4-2-103(1)(i), this rule establishes the application process, qualifications, and requirements to obtain and maintain a cannabis processing license.~~

~~R68-28-2. Definitions.~~

~~(1) "Advertised Cannabinoid" means a cannabinoid listed on the product face.~~

~~(2) "Appealing to children" means:~~

~~(a) has a likeness bearing resemblance to a cartoon character or fictional character; or~~

~~(b) appears to imitate a food or other product that is typically marketed toward or is appealing to children.~~

~~(3) "Applicant" means any person or business entity who applies for a cannabis processing facility license.~~

~~(4)(a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the cannabis plant.~~

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

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

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

~~(5) "Batch" means a quantity of:~~

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

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

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

~~(6) "Brand name" means a type of product manufactured by a particular company under a particular name. "Brand name" does not mean strains or flavors.~~

~~(7) "Board" means the Cannabis Production Establishment Licensing Advisory Board, created in Section 4-41a-201.1.~~

~~(8) "Cannabinoid isolate" means the same as the term is defined in Subsection R68-29-2(11).~~

~~(9)(a) "Cannabis" means any part of a marijuana plant.~~

~~(b) "Cannabis" does not mean, for the purposes of this rule, industrial hemp.~~

~~(10) "Cannabis concentrate" means the product of any chemical or physical process applied to cannabis biomass that concentrates or isolates the cannabinoids contained in the biomass.~~

~~(11) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.~~

~~(12) "Cannabis cultivation facility" means a person that:~~

~~(a) possesses cannabis;~~

~~(b) grows or intends to grow cannabis; and~~

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

~~(13) "Cannabis derivative product" means a product made using cannabis concentrate.~~

~~(14) "Cannabis fact panel" means a part of the label that contains the information described in Subsections R68-28-13(6) and R68-28-13(7).~~

~~(15) "Cannabis plant product" means any portion of a cannabis plant intended to be sold by a medical cannabis pharmacy in a form that is recognizable as a portion of a cannabis plant.~~

~~(16) "Cannabis processing facility" means a person that:~~

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

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

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

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

~~(17) "Cannabis processing facility agent" means an individual who holds a valid cannabis production establishment agent registration card with a cannabis processing facility designation.~~

~~(18) "Cannabis production establishment agent registration card" means a registration card that the department issues that:~~

~~(a) authorizes an individual to act as a cannabis production establishment agent; and~~

~~(b) designates the type of cannabis production establishment for which an individual may act as an agent.~~

~~(19) "COA" means Certificate of Analysis from an independent cannabis testing laboratory.~~

~~(20) "Complaint" means any negative feedback received from a medical cannabis patient or medical cannabis or industrial hemp licensee.~~

~~(21) "Department" means the Utah Department of Agriculture and Food.~~

~~(22) "Directions for use" means recommended routes of administration for a medical cannabis treatment and suggested usage guidelines, and may include:~~

~~(a) THC percentage;~~

~~(b) strain names;~~

~~(c) strain dominance; or~~

~~(d) dietary restrictions.~~

(23) "Label" means a written, printed, or graphic display on the immediate container of a product.

(24) "Labeling" means a label and other written, printed, or graphic display:

(a) on the product or the product's container or wrapper; or

(b) accompanying the product.

(25) "Logo" means symbols, stylized text, or both that represent a company through a visual image that can be easily understood and recognized.

(26) "Lot" means the quantity of:

(a) flower produced on a particular date and time, following clean up until the next clean up during which the same materials are used; or

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

(27) "Product face" means the part of a label that is on the outer packaging and most likely to be displayed, presented, or shown under customary conditions of display for retail sale.

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

R68-28-3. Cannabis Processing Facility License.

(1) A cannabis processing facility license allows the licensee to receive cannabis from a cannabis production facility.

(2) A Tier 1 cannabis processing facility license allows the licensee to:

(a) create cannabis concentrate;

(b) create cannabis derivative product; and

(c) package and label final product.

(3) A Tier 2 cannabis processing facility license allows the licensee to package and label cannabis and cannabis final product.

(4) A complete application shall include the required fee, statements, forms, diagrams, operation plans, copy of current Utah manufactured food establishment registration, and other applicable documents required in the application packet to be accepted and processed by the department.

(5) Before approving an application, the department may contact the applicant and request additional supporting documentation or information.

(6) Before issuing a license, the department shall inspect the proposed premises to determine if the applicant complies with state laws and rules.

(7) Each cannabis processing facility license shall expire one calendar year from the date of licensure.

(8) An application for renewals shall be submitted to the department 30 days before expiration.

(9) If the renewal application is not submitted 30 days before the expiration date, the licensee may not continue to operate.

(10) A cannabis production establishment license is not transferable or assignable. If the ownership of a cannabis production establishment changes by 50% or more, the requirements of Subsection 4-41a-201(15) shall be followed.

R68-28-4. Cannabis Processing Facility Requirements.

(1) A cannabis processing facility operating plan shall contain a blueprint of the facility containing the following information:

(a) the square footage of the areas where cannabis is to be extracted;

(b) the square footage of the areas where cannabis or cannabis products are to be packaged and labeled;

(c) the square footage of the areas where cannabis products are manufactured;

(d) the square footage and location of storerooms for cannabis awaiting extraction;

(e) the square footage and location of storerooms for cannabis awaiting further manufacturing;

(f) the area where finished cannabis and cannabis products are stored;

(g) the location of toilet facilities and hand washing facilities;

(h) the location of a break room and location of personal belonging lockers;

(i) the location of the areas to be used for loading and unloading of cannabis and cannabis products; and

(j) the total square footage of the overall cannabis processing facility.

(2) A cannabis processing facility shall have written emergency procedures to be followed in case of:

(a) fire;

(b) chemical spill; or

(c) other emergency at the facility.

(3) A cannabis processing facility shall have a written plan to handle potential recall and destruction of cannabis due to contamination.

(4) A cannabis processing facility shall use a standardized scale that is registered with the department when cannabis is:

(a) packaged for sale by weight;

(b) bought and sold by weight; or

(c) weighed for entry into the inventory control system.

(5) A cannabis processing facility shall compartmentalize each area in the facility based on function and shall limit access between compartments.

(6) A cannabis processing facility shall limit access to the compartments to the appropriate agents.

(7) A cannabis processing facility creating cannabis derivative product shall develop standard operating procedures.

(8) Pursuant to Subsection 4-41a-403(4)(b), a cannabis processing facility may use signage on the property that includes a logo, as long as the logo does not include:

(a) unprofessional terms, slang, phrasing, or verbiage associated with the recreational use of cannabis;

(b) any image bearing resemblance to a cartoon character or fictional character whose target audience is children or minors;

(c) content, symbol, or imagery that the cannabis processing facility knows or should know appeals to children;

(d) imagery featuring a person using the product in any way;

(e) any recreationally oriented subject; or

(f) any statement, design, or representation, picture, or illustration that is obscene or indecent.

(9) A cannabis processing facility shall keep records of any complaints received and make those records available to the department upon request.

(10) A cannabis processing facility shall keep records verifying that each time they receive a batch of vaporizer cartridges a sample is tested for heavy metals by an independent cannabis testing laboratory pursuant to Section 4-41a-603 or have a certificate of conformance from the manufacturer.

~~R68-28-5. Separation of Cannabis and Hemp Processed in a Single Facility.~~

~~(1) Any facility that has both an industrial hemp processing license and a license for medical cannabis processing shall ensure physical separation of medical cannabis and industrial hemp in their facility.~~

~~(2) Processing of industrial hemp material and cannabis material shall not occur on the same equipment on the same day, unless cleaned between runs.~~

~~(3) Processing equipment may be considered neutral territory for hemp and cannabis if:~~

~~(a) only one material is present in neutral territory at a time;~~

~~(b) packaging tables in neutral territory are only used for the material being processed that day; and~~

~~(c) if packaging tables are used for another material they shall be moved to the respective side of the facility.~~

~~(4) If the facility uses the same machinery to process both industrial hemp and medical cannabis:~~

~~(a) the machinery shall be cleaned in between hemp and cannabis days;~~

~~(b) cleaning logs shall be kept and monitored by the department upon inspection of the facility; and~~

~~(c) cleaning logs shall include the machines used, the date cleaned, and the name of the employee that conducted the cleaning.~~

~~(5) Packaging of medical cannabis and industrial hemp may occur:~~

~~(a) in a neutral zone; or~~

~~(b) in a designated side of the facility.~~

~~(6) Freezer separation.~~

~~(a) Each licensee that processes both medical cannabis and industrial hemp shall have a separate freezer or a physical separation within the same freezer for each material.~~

~~(b) Cannabis and hemp material shall be clearly labeled pursuant to the requirements of this rule and Rule R68-25 and shall be in sealed containers.~~

~~(7) Storage separation.~~

~~(a) Industrial hemp and medical cannabis shall be stored in separate secure locations.~~

~~(b) Storage shall include storage for:~~

~~(i) final product;~~

~~(ii) raw material; and~~

~~(iii) processed material.~~

~~(8) Upon request, the licensee shall inform the department of how separation of materials is implemented, including the facility's separation procedures for raw material, extract, and final products.~~

~~R68-28-6. Cannabis Extraction Requirements.~~

~~(1) A cannabis processing facility shall ensure hydrocarbons n-butane, isobutane, propane, or heptane are of at least 99% purity.~~

~~(2) A cannabis processing facility shall use a professional grade extraction system designed to recover the solvents, work in an environment with proper ventilation, and control each source of ignition where a flammable atmosphere is or may be present.~~

~~(3) A cannabis processing facility using carbon dioxide (CO_2) gas extraction system shall use a professional grade closed loop CO_2 gas extraction system where each vessel is rated to a minimum of six hundred pounds per square inch and CO_2 shall be at least 99% purity.~~

~~(4) Closed loop hydrocarbon, alcohol, or CO_2 extraction systems shall be commercially manufactured and bear a permanently affixed and visible serial number.~~

~~(5) A cannabis processing facility using a closed loop system shall, upon request, provide the department with certification from a licensed engineer stating the system is:~~

~~(a) safe for its intended use;~~

~~(b) commercially manufactured; and~~

~~(c) built to conform to recognized and generally accepted good engineering practices, such as:~~

~~(i) the American Society of Mechanical Engineers (ASME);~~

~~(ii) American National Standards Institute (ANSI);~~

~~(iii) Underwriters Laboratories; or~~

~~(iv) The American Society for Testing and Materials.~~

~~(6) The certification document shall contain the signature and stamp of the certifying professional engineer and the serial number of the extraction unit being certified.~~

~~(7) A cannabis processing facility may use an alternative extraction method with prior approval from the department.~~

~~(8) A cannabis processing facility shall use food grade ingredients to create cannabis derivative product.~~

~~(9) A cannabis processing facility may use heat, screens, presses, steam distillation, ice water, and other mechanical methods which do not use solvents or gasses.~~

~~(10) A cannabis processing facility shall ensure each solvent, with the exception of CO_2, is extracted in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.~~

~~(11) A cannabis processing facility agent using solvents or gasses in a closed loop system shall be fully trained in the use of the system and have direct access to applicable material safety data sheets.~~

~~(12) Parts per million for one gram of finished extract cannot exceed residual solvent or gas levels provided in Rule R68-29.~~

~~R68-28-7. Cannabinoid Isolate.~~

~~(1) A licensed Tier 1 cannabis processing facility may use cannabinoid isolate from a licensed industrial hemp processing facility.~~

~~(2) A Tier 1 cannabis processing facility may not receive more than 120 kilograms of cannabinoid isolate in a single license year.~~

~~(3) Any transfer of cannabinoid isolate shall be accompanied by a full panel COA.~~

~~(4) The cannabis processing facility shall maintain record of each transfer of cannabinoid isolate that is available for review by the department, including:~~

~~(a) the source of the cannabinoid isolate and verification that it was derived from certified industrial hemp;~~

~~(b) the intended use of the cannabinoid isolate; and~~

~~(c) the disposition of the cannabinoid isolate.~~

~~(5) Upon receipt of cannabinoid isolate, a cannabinoid processing facility shall submit a sample of the isolate to a licensed independent cannabis testing laboratory for cannabinoid and adulterant testing, pursuant to the requirements of Rule R68-29.~~

~~R68-28-8. Security Requirements.~~

~~(1) At a minimum, each cannabis processing facility shall have a security alarm system on each perimeter entry point and perimeter window.~~

(2) At a minimum, a licensed cannabis processing facility shall have a complete video surveillance system:

(a) with minimum camera resolution of 1280 x 720 pixels or pixel equivalent for analog; and

(b) that retains footage for at least 45 days.

(3) Each camera shall be fixed and placement shall allow for the clear and certain identification of any person and activities in controlled areas.

(4) Controlled areas included:

(a) any entrances and exits, or ingress and egress vantage points;

(b) any areas where cannabis or cannabis products are stored;

(c) any areas where cannabis or cannabis products are extracted;

(d) any areas where cannabis or cannabis products are manufactured, packaged, or labeled; and

(e) any areas where cannabis waste is being moved, processed, stored, or destroyed.

(5) Each camera shall record continuously.

(6) For locally stored footage, the surveillance system storage device shall be secured in the facility in a lockbox, cabinet, closet, or secured in another manner to protect from employee tampering or theft.

(7) For footage stored on a remote server, access shall be restricted to protect from employee tampering.

(8) Any gate or entry point must have lighting sufficient to record activity occurring in low light conditions.

(9) Each visitor to a cannabis processing facility shall be required to display an identification badge issued by the facility while on the premises.

(10) At any time, visitors shall be escorted by a cannabis processing facility agent.

(11) A cannabis processing facility shall keep and maintain a visitors log showing:

(a) the full name of each visitor entering the facility;

(b) badge number issued;

(c) the time of arrival;

(d) the time of departure; and

(e) the purpose of the visit.

(12) The cannabis processing facility shall keep the visitors log for a minimum of one year.

(13) The cannabis processing facility shall make the visitor log available to the department upon request.

R68-28-9. Inventory Control.

(1) Each batch or lot of cannabis, cannabis derivative product, cannabis product, test sample, or cannabis waste shall be entered into the inventory control system. Recorded information shall include:

(a) unique identification number;

(b) package ID;

(c) name of product;

(d) facility name and license number; and

(e) date created.

(2) Each batch or lot of cannabis, cannabis derivative product, cannabis product, sample, or cannabis waste shall be traceable to the lot.

(3) Unique identification numbers may not be reused.

(4) Each batch, lot, or sample of cannabis shall have a unique identification number that is displayed on a physical tag.

(5) The tag shall be legible and placed in a position that can be clearly read.

(6) The following shall be reconciled in the inventory control system at the close of each business each day:

(a) date and time material containing cannabis are being transported to a cannabis production establishment or medical cannabis pharmacy;

(b) each sample used for testing and the test results;

(c) a complete inventory of material containing cannabis;

(d) cannabis product by unit count;

(e) weight per unit of product;

(f) weight and disposal of cannabis waste materials;

(g) the identity of who disposed of the cannabis waste and the location of the waste receptacles; and

(h) theft or loss or suspected theft or loss of material containing cannabis.

(7) A receiving cannabis processing facility shall document in the inventory control system any material containing cannabis received, and any difference between the quantity specified in the transport manifest and the quantity received.

(8) A cannabis processing facility shall immediately upon receipt of THC extract from a licensed industrial hemp processor enter the following information into the inventory control system:

(a) the amount of THC extract received;

(b) the name, address, and licensing number of the industrial hemp processor;

(c) the weight per unit of product received; and

(d) the assigned unique identification number.

R68-28-10. Cannabis Processing Facility Agents.

(1) A prospective cannabis processing facility agent shall apply to the department for a cannabis processing facility agent registration card on a form provided by the department.

(2) An application is not considered complete until the background check has been completed, the the registration fee has been paid, and the prospective agent has submitted the required training certificate.

(3) The cannabis processing facility agent registration card shall contain:

(a) the full name of the agent;

(b) identifying information; and

(c) a photograph of the agent.

(4) A cannabis processing facility is responsible to ensure that each agent has received

any task specific training as outlined in the operating plan submitted to the department.

(5) A cannabis processing facility agent shall have a properly displayed identification badge which has been issued by the department at all times while on the facility premises or while engaged in the transportation of cannabis.

(6) Each cannabis processing facility agent shall have their state issued identification card in their possession to certify the information on their badge is correct.

(7) Each cannabis processing facility shall maintain a list of each employee that holds a cannabis processing facility agent registration card and provide the list to the department upon request.

R68-28-11. Minimum Storage and Handling Requirements.

(1) A cannabis processing facility shall store cannabis, cannabis concentrate, or cannabis product in a location separated by a physical barrier from outdated, damaged, deteriorated, misbranded,

~~or adulterated product or product whose containers or packaging have been opened or breached.~~

~~(2) Cannabis, cannabis concentrate, and cannabis product shall be stored at least six inches off the ground.~~

~~(3) Storage areas shall:~~

~~(a) be maintained in a clean and orderly condition; and~~

~~(b) be free from infestation by insects, rodents, birds, or vermin.~~

~~(4) A cannabis processing facility shall:~~

~~(a) track and label each cannabis plant product and cannabis concentrate;~~

~~(b) ensure each unfinished product is stored in a secure location; and~~

~~(c) immediately after completion of the process or at the end of the scheduled business day return to a secure location.~~

~~(5) Cannabis shall be stored away from other chemicals, lubricants, pesticides, or other potential contaminants.~~

~~(6) If a manufacturing process cannot be completed at the end of a working day, the processor shall securely lock the processing area or tanks, vessels, bins, or bulk containers containing cannabis inside an area or room that affords adequate security.~~

~~R68-28-12. Product Appearance and Flavor.~~

~~(1) A cannabis processing facility may not produce a cannabis product that is designed to mimic a candy product.~~

~~(2) A cannabis processing facility may not shape a cannabis product in any way to appeal to children.~~

~~R68-28-13. Processing of Cannabis and Cannabis Product.~~

~~(1) A cannabis processing facility shall process, manufacture, package, and label cannabis and cannabis product in accordance with 21 CFR 111, "Current Good Manufacturing, Packaging, Labeling, or Holding Operation for Dietary Supplements."~~

~~(2) Cannabis and cannabis product shall be packaged in child-resistant packaging in accordance with 16 CFR 1700.~~

~~(3) A cannabis processing facility shall package cannabis or cannabis product in accordance with this rule and Section 4-41a-602 before transportation to a medical cannabis pharmacy.~~

~~(4) Any container or packaging containing cannabis or cannabis product shall protect the product from contamination and shall not impart any toxic or deleterious substance to the cannabis or cannabis product.~~

~~(5) Cannabis cultivation byproduct shall either be:~~

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

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

~~(6) Cannabis concentrate and product produced by cannabis processing facilities shall be tested pursuant to Rule R68-29.~~

~~(7) If a cannabis product contains artificially derived cannabinoids they shall be isolated to a purity of greater than 95%, as required by Subsection 4-41a-603(3).~~

~~(8) A cannabis product may vary in the cannabis product's labeled cannabinoid profile by up to 10% of the indicated amount of a given cannabinoid, by weight.~~

~~R68-28-14. Labeling and Packaging of Cannabis and Cannabis Product.~~

~~(1) Cannabis product labeling shall contain the following information:~~

~~(a) the medicinal dosage form identified on the product face along with the words "THC or Cannabis Infused":~~

~~(i) "gummies" may be used instead of "gelatinous cube";~~

~~(ii) "tincture" may be used instead of "sublingual preparation" or "liquid suspension"; and~~

~~(iii) a descriptive product name is allowed if the text is smaller than the dosage form and is no appealing to children;~~

~~(b) the name and license number of the cannabis processing facility;~~

~~(c) directions for consumers to contact the department with product complaints by going to medicalcannabis.utah.gov/production;~~

~~(d) for products containing THC, a warning symbol provided by the department; and~~

~~(e) the amount of total THC contained in the package, in milligrams.~~

~~(2) Before January 1, 2024, cannabis product labeling shall contain the following warning: "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a recommending medical provider."~~

~~(3) Starting on January 1, 2024, cannabis product labeling shall contain the following warning: "WARNING: Cannabis has intoxicating effects, may be addictive, and may increase risk of mental illness. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a recommending medical provider."~~

~~(4) Starting on May 3, 2023, raw cannabis or a cannabis product sold in a vaporizer cartridge shall include a warning label that states:~~

~~(a) "WARNING: Vaping of cannabis-derived products has been associated with lung injury."; and~~

~~(b) "WARNING: Inhalation of cannabis smoke has been associated with lung injury."~~

~~(5) A cannabis processing facility may include a QR code on the cannabis product labeling that links to a COA from a licensed independent cannabis testing laboratory. The QR code may not link to any other information.~~

~~(6) Any information appearing on the cannabis product labeling shall be:~~

~~(a) displayed in any legible font, that is not a script or decorative font, provided that the lowercase letter "o" is at least one-sixteenth inch in height;~~

~~(b) displayed in a color that contrasts conspicuously with its background; and~~

~~(c) displayed in English, although a licensee may also choose to display required information in additional languages.~~

~~(7) A cannabis processing facility shall place a cannabis fact panel on a cannabis product before the sale of the cannabis product to a medical cannabis pharmacy.~~

~~(8) The cannabis fact panel shall be printed in black and white.~~

~~(9) The cannabis fact panel shall be securely affixed to the package.~~

~~(10) The cannabis fact panel for cannabis plant product shall include the following information, from top to bottom, in the order as listed:~~

~~(a) the name of the cannabis cultivation facility;~~

~~(b) the lot number;~~

~~(c) the date of harvest;~~

~~(d) the date of final testing;~~
~~(e) the batch number;~~
~~(f) the date on which the product was packaged;~~
~~(g) the quantity of any cannabinoid listed as present on the COA that is greater than 1% of total cannabinoids;~~
~~(h) the expiration date; and~~
~~(i) the net weight displayed in grams.~~
~~(11) THC potency levels for cannabis flower shall be listed as total THC in milligrams per gram.~~
~~(12) The cannabis fact panel for cannabis derivative product shall include the following information, from top to bottom, in the order listed:~~
~~(a) the batch number;~~
~~(b) the date of the final testing;~~
~~(c) the date on which the product was packaged;~~
~~(d) for products intended to be ingested, the amount of total THC and any advertised cannabinoid in milligrams per serving;~~
~~(e) the quantity of any cannabinoid listed as present on the COA that is greater than 1% of total cannabinoids;~~
~~(f) the expiration date;~~
~~(g) the total amount of THC measured in milligrams per gram;~~
~~(h) a list of each ingredient and each major food allergen as identified in 21 U.S.C. 343;~~
~~(i) the identity of any artificially derived cannabinoid present in the product;~~
~~(j) the net weight of the product displayed in grams or milliliters and number of pieces, if applicable; and~~
~~(k) a disclosure of the type of extraction process used and any solvent, gas, or other chemical used in the extraction process.~~
~~(13) The label of a cannabis derivative product may include a flavor name if it is not candy-like or a name the facility knows or should know appeals to children.~~
~~(14) The label of a cannabis product that contains an artificially derived cannabinoid shall clearly display the following text : "This product contains artificially derived cannabinoids."~~
~~(15) Any terpene listed on a cannabis product package shall be verified as present by a licensed independent cannabis testing laboratory and have its quantity listed on the fact panel.~~
~~(16) A cannabis processing facility may include a logo and product brand name on the cannabis product face that is exempt from the requirements of Subsection R68-28-13(3) and that:~~
~~(a) does not exceed 20% of the product face;~~
~~(b) does not obscure the information required on the label; and~~
~~(c) does not include:~~
~~(i) unprofessional terms, slang, phrasing, or verbiage associated with the recreational use of cannabis;~~
~~(ii) any image bearing resemblance to a cartoon character or fictional character whose target audience is children or minors;~~
~~(iii) content, symbol, or imagery that the cannabis processing facility knows or should know appeals to children;~~
~~(iv) imagery featuring a person using the product in any way;~~
~~(v) any recreationally oriented subject; or~~
~~(vi) any statement, design, or representation, picture, or illustration that is obscene or indecent.~~
~~(17) No other information, illustration, or depiction with the exception of directions for use shall appear on the labeling.~~
~~(18) Shapes on cannabis product packaging or labeling shall not resemble the product or real-world items.~~
~~(19) After January 1, 2023, cannabis product packaging, logos, and brand names shall be pre-approved by the department.~~

~~**R68-28-15. Transportation.**~~
~~(1) A printed transport manifest shall accompany each transport of cannabis.~~
~~(2) The manifest shall contain the following information:~~
~~(a) the cannabis production establishment address and license number of the departure location;~~
~~(b) physical address and license number of the receiving location;~~
~~(c) strain name, quantities by weight, and unique identification numbers of each cannabis material to be transported;~~
~~(d) date and time of departure;~~
~~(e) estimated date and time of arrival; and~~
~~(f) name and signature of each agent accompanying the cannabis.~~
~~(3) The transport manifest may not be voided or changed after departing from the original cannabis production establishment.~~
~~(4) A copy of the transport manifest shall be given to the receiving cannabis production establishment or medical cannabis pharmacy.~~
~~(5) The receiving cannabis processing facility, independent laboratory, or medical cannabis pharmacy shall ensure that the cannabis material received is as described in the transport manifest and shall:~~
~~(a) record the amounts received for each strain into the inventory control system; and~~
~~(b) document any differences between the quantity specified in the transport manifest and the quantities received in the inventory control system.~~
~~(6) During transportation, cannabis shall be:~~
~~(a) shielded from the public view;~~
~~(b) secured; and~~
~~(c) temperature controlled if perishable.~~
~~(7) A cannabis production facility shall contact the department within 24 hours if a vehicle transporting cannabis is involved in an accident that involves product loss.~~
~~(8) Only the registered agents of the cannabis processing facility may occupy a transporting vehicle.~~

~~**R68-28-16. Recall Protocol.**~~
~~(1) The department may initiate a recall of cannabis or cannabis products if:~~
~~(a) evidence exists that pesticides not approved by the department are present on or in the cannabis or cannabis product;~~
~~(b) evidence exists that residual solvents are present on or in cannabis or cannabis product;~~
~~(c) evidence exists that harmful contaminants are present on or in cannabis or cannabis product; or~~
~~(d) the department believes or has reason to believe the cannabis or cannabis product is unfit for human consumption.~~
~~(2) The recall plan of a cannabis processing facility shall include, at a minimum:~~
~~(a) a designation of at least one member of the staff who serves as the recall coordinator;~~
~~(b) procedures for identifying and isolating product to prevent or minimize distribution to patients;~~
~~(c) procedures to retrieve and destroy product; and~~
~~(d) a communications plan to notify those affected by the recall.~~

(3) The cannabis processing facility shall track the total amount of affected cannabis or cannabis product and the amount of affected cannabis or cannabis product returned to the facility as part of the recall.

(4) The cannabis processing facility shall coordinate the destruction of the cannabis or cannabis product with the department and allow the department to oversee the destruction of the affected product.

(5) The department has authority to monitor the progress of the recall until the department declares an end to the recall.

(6) A cannabis production facility shall notify the department before initiating a voluntary recall.

R68-28-17. Cannabis Waste Disposal.

(1) Solid and liquid wastes generated during cannabis processing shall be stored, managed, and disposed of in accordance with applicable state law.

(2) Wastewater generated during the cannabis production and processing shall be disposed of in compliance with applicable state law.

(3) Cannabis waste generated from the cannabis plant, trim, and leaves is not considered hazardous waste unless it has been treated or contaminated with a solvent or pesticide.

(4) Cannabis waste shall be made unusable before leaving the cannabis processing facility.

(5) Cannabis waste, that is not designated as hazardous, shall be made unusable by grinding and incorporating the cannabis waste with other ground materials so the resulting mixture is at least 50% non-cannabis waste by volume or other methods approved by the department before implementation.

(6) Materials used to grind and incorporate with cannabis fall into two categories:

(a) compostable; or

(b) non-compostable.

(7) Compostable waste is cannabis waste to be disposed of as compost or in another organic waste method mixed with:

(a) food waste;

(b) yard waste; or

(c) vegetable-based grease or oils.

(8) Non-compostable waste is cannabis waste to be disposed of in a landfill or another disposal method, such as incineration, mixed with:

(a) paper waste;

(b) cardboard waste;

(c) plastic waste; or

(d) soil.

(9) Cannabis waste includes:

(a) cannabis plant waste, including roots, stalks, leaves, and stems;

(b) excess cannabis or cannabis products from any quality assurance testing;

(c) cannabis or cannabis products that fail to meet testing requirements; and

(d) cannabis or cannabis products subject to a recall.

R68-28-18. Change in Operation Plans.

(1) A cannabis processing facility shall submit a notice, on a form provided by the department, before making any changes to the facility's operating plan, including:

(a) ownership or financial backing of the facility;

(b) the facility's name;

(c) a change in location;

(d) any modification, remodeling, expansion, reduction or physical, non-cosmetic alteration of a facility;

(e) change to the number of production lines; or

(f) any information requested by the department that shall allow the department to determine if requirements will be met.

(2) A cannabis processing facility may not implement changes to the initial approved operation plan without board approval.

(3) The board shall approve of requested changes unless approval would lead to a violation of the applicable laws and rules of the state.

(4) The department shall specify the reason for the denial of approval for a change to the operation plan.

(5) Before the board's review of a cannabis production establishment license under Subsection 4-41a-201.1(7)(c), the cannabis production establishment shall provide the board with:

(a) blueprints that show that there will be physical separation between medical cannabis and industrial hemp produced in their facility, including demonstrating storage and packaging areas on separate sides of the same room; and

(b) any information requested by the board that shall allow the board to determine if the requirements of Section R68-28-5 will be met before the medical cannabis production establishment processes industrial hemp or industrial hemp products.

R68-28-19. Renewals.

(1) A cannabis processing facility shall submit a notice of intent to renew and the licensing fee to the department within 30 days of license expiration.

(2) If the licensing fee and intent to renew are not submitted within 30 days of license expiration, the licensee may not continue to operate.

(3) The board may take into consideration significant violations issued in determining license renewals.

R68-28-20. Violation Categories.

(1) Public Safety Violations: $3,000 - $5,000 per violation. This category is for violations which present a direct threat to public health or safety including:

(a) cannabis sold to an unlicensed source;

(b) cannabis purchased from an unlicensed source;

(c) refusal to allow inspection;

(d) failure to comply with testing requirements;

(e) a test result for high pesticide residue in the cannabis produced or cannabis product;

(f) a test result for high residual solvents, heavy metal, microbials, molds, or other harmful contaminants;

(g) failure to maintain required cleanliness and sanitation standards;

(h) unauthorized personnel on the premises;

(i) permitting criminal conduct on the premises;

(j) possessing, manufacturing, or distributing cannabis products that the person knows or should know appeal to children;

(k) failure to follow an approved recall protocol; or

(l) engaging in or permitting a violation of the Title 4, Chapter 41a, Cannabis Production Establishments, which amounts to a public safety violation as described in this subsection.

(2) Regulatory Violations: $1,000-$5,000 per violation. This category is for violations involving this rule and other applicable state rules including:

(a) failure to maintain alarm and security systems;

~~(b) failure to keep and maintain records for at least two years;~~
~~(c) failure to maintain traceability;~~
~~(d) failure to follow transportation requirements;~~
~~(e) failure to follow the waste and disposal requirements;~~
~~(f) failure to maintain separation between cannabis and hemp;~~
~~(g) failure to follow labeling and packaging requirements;~~
~~(h) failure to meet extraction requirements;~~
~~(i) distributing a final cannabis product with an actual weight that is lower than the net weight listed on the cannabis fact panel;~~
~~(j) engaging in or permitting a violation of Title 4, Chapter 41a, Cannabis Production Establishments or this rule which amounts to a regulatory violation as described in this subsection; or~~
~~(k) failure to maintain standardized scales.~~
~~(3) Licensing Violations: $500- $5,000 per violation. This category is for violations involving licensing requirements including:~~
~~(a) an unauthorized change to the operating plan;~~
~~(b) failure to notify the department of changes to the operating plan;~~
~~(c) failure to notify the department of changes to financial or voting interests of greater than 2%;~~
~~(d) failure to follow the operating plan as approved by the department;~~
~~(e) engaging in or permitting a violation of this rule or Title 4, Chapter 41a, Cannabis Production Establishments which amounts to a licensing violation as described in this subsection; or~~
~~(f) failure to respond to violations.~~
~~(4) The department shall calculate penalties based on the level of violation and the adverse effect or potential adverse effect at the time of the incidents giving rise to the violation.~~
~~(5) The department may enhance or reduce the penalty based on the seriousness of the violation.~~

~~**KEY: cannabis processing, cannabis production establishment**~~
~~**Date of Last Change: October 30, 2023**~~
~~**Authorizing, and Implemented or Interpreted Law: 4-41a-103(5); 4-41a-404(3); 4-41a-701(3); 4-41a-302(3)(b)(ii); 4-2-103(1)(i); 4-41a-405(2)(b)(iv); 4-41a-801(1)]**~~

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	**R68-33**	**Filing ID: 56359**

Agency Information

1. Department:	Agriculture and Food
Agency:	Plant Industry
Building:	TSOB South Bldg, Floor 2
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO Box 146500
City, state and zip:	Salt Lake City, UT 84114-6500

Contact persons:		
Name:	**Phone:**	**Email:**
Amber Brown	385-245-5222	ambermbrown@utah.gov
Brandon Forsyth	801-710-9945	bforsyth@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R68-33. Industrial Hemp Retailer Permit
3. Purpose of the new rule or reason for the change:
This rule is being repealed so it can be simultaneously reenacted under a new title specific to medical cannabis and industrial hemp, Title R66.
4. Summary of the new rule or change:
This rule is repealed in its entirety so it can be reenacted under a new title specific to medical cannabis and industrial hemp. The substantive content will remain the same under new Rule R66-34. (EDITOR'S NOTE: The proposed new Rule R66-34 is under ID No. 56360 in this issue, April 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 proposed repeal does not have a fiscal impact to the state because the rule text is not changing between the repeal and the new rule. It is reenacted as new Rule R66-34.
B) Local governments:
Local governments will not be impacted because they do not participate in the medical cannabis program.
C) Small businesses ("small business" means a business employing 1-49 persons)**:**

This proposed repeal does not have a fiscal impact to small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed repeal does not have a fiscal impact to non-small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed repeal does not have a fiscal impact to other persons because the rule text is not changing between the repeal and the new rule.

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

Compliance costs are not impacted because the substance of the rule is not changing 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

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

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

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

Citation Information

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

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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024

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 W. Buttars, Commissioner	**Date:**	03/07/2024

R68. Agriculture and Food, Plant Industry.

~~[R68-33. Industrial Hemp Retailer Permit.~~

~~R68-33-1. Authority and Purpose.~~

~~Pursuant to Section 4-41-103.3 and Subsection 4-2-103(1)(i), this rule establishes the requirements for a person seeking an industrial hemp retailer permit.~~

~~R68-33-2. Definitions.~~

~~(1) "Cannabinoid product" means the same as the term is defined in Subsection 4-41-102(6).~~

~~(2) "Cannabinoid product class" means a group of cannabinoid products:~~

~~(a) that have all ingredients in common; and~~

~~(b) are produced by or for the same company.~~

~~(3) "Conventional Food" means:~~

~~(a) an article used for food or drink for human consumption or the components of the article; or~~

(b) chewing gum or chewing gum components.

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

(5) "Industrial hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by weight.

(6) "Industrial hemp retailer permit" means a permit that the department issues to a retailer who sells or markets any cannabinoid product.

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

(8) "Premises" means a place where an industrial hemp product is sold, offered for sale, exposed for sale, stored, or marketed.

(9) "Viable seeds" means seed that has a germination rate of greater than 0.0%.

R68-33-3. Industrial Hemp Retailer Permit.

(1) A person who sells, offers for sale, exposes for sale, or markets a cannabinoid product in the state shall secure an industrial hemp retailer permit from the department.

(2) A permit shall be obtained before a cannabinoid product is offered for sale in Utah.

(3) A person seeking an industrial hemp retailer permit shall provide to the department:

(a) the name of the person who sells, offers for sale, or markets a cannabinoid product;

(b) the address of each location where the cannabinoid product is sold, offered for sale, or marketed; and

(c) written consent allowing a representative of the department to enter any premises where the person is selling cannabinoid product.

(4) A retailer shall obtain a permit for each individual store or retail establishment location where cannabinoid products are sold.

(5) A permit fee, as set forth in the fee schedule approved by the Legislature, shall be paid to the department with the submission of the application.

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

(7) A permit is renewable for up to a one-year period with an annual renewal fee that shall be paid on or before December 31st of each year.

(8) A late fee shall be assessed for a renewal of an industrial hemp retailer permit submitted after December 31st and shall be paid before the renewal is issued.

R68-33-4. Inspection and Testing.

(1) The department shall randomly inspect a retailer permittee to ensure cannabinoid product distributed or available for distribution in Utah is in compliance with this rule and Rule R68-26.

(2) The department shall periodically sample, analyze, and test cannabinoid product distributed within the state for compliance with registration and labeling requirements, and the certificate of analysis, if applicable.

(3) The department may inspect cannabinoid product distributed or available for distribution for any other reason the department deems necessary.

(4) The department may, upon request, inspect a retailer permittee's records of receipt, inventory, and invoices to ensure cannabinoid product distributed or available for distribution in Utah is following this rule and Rule R68-26.

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

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

R68-33-5. Retailer Permittee Responsibilities.

(1) A retailer shall:

(a) ensure that an advertisement for cannabinoid product sold or marketed in Utah does not contain any medical claim unless the product has been issued a National Drug Code by the FDA; and

(b) ensure that a cannabinoid product sold is properly registered with the department.

(2) A retailer shall provide the identity of the manufacturer or distributor of a cannabinoid product sold upon request of the department.

(3) A retailer may register the product in lieu of the manufacturer if the product is not registered.

(4) A retailer shall ensure that each location is permitted.

(5) A retailer shall ensure that products containing THC or THC analogs are only sold to individuals 21 years of age and older.

R68-33-6. Viable Industrial Hemp Seed.

(1) A person who sells or markets viable industrial hemp seeds in the state shall secure an industrial hemp retailer permit from the department.

(2) A separate permit is required for each individual business location in the state where viable industrial hemp seeds are sold or distributed.

(3) Any manufacturer or distributor who does not have a seed retail business within this state, and who sells or distributes viable industrial hemp seeds directly into Utah, shall obtain an industrial hemp retailer permit from the department for their principal out-of-state business location.

(4) A person who sells or markets viable industrial hemp seeds in the state may only sell viable seed to a licensed industrial hemp producer.

(5) Each industrial hemp retailer that sells or distributes viable industrial hemp seed shall keep a record of any viable industrial hemp seed sales. This sales record shall be submitted to the department through the department's website on the day of each sale and shall contain the following information:

(a) the company name of the industrial hemp retailer;

(b) the store or location name of the industrial hemp retailer making the sale;

(c) the complete industrial hemp retailer permit number;

(d) the first and last name of the individual who made the sale;

(e) the complete date of the sale, including the month, day, and year;

(f) the brand name of the seeds and the quantity sold;

(g) the first and last name of the licensed hemp producer who made the purchase;

(h) the complete license number of the licensed hemp producer who made the purchase; and

(i) the complete address and contact information of the licensed hemp producer who made the purchase, including street name and house number, city, state, zip code, phone number, and email address.

(6) Records shall be kept for a period of two years from the date of the hemp seed sale and shall be made available for inspection by the department.

~~(7) The department, upon request and within two business days, shall be furnished a copy of any sales records completed by the industrial hemp retailer.~~

~~R68-33-7. Violation.~~

~~(1) A cannabinoid product shall be considered falsely advertised if the permittee makes a claim about a product that is not on the label.~~

~~(2) It is a violation to:~~

~~(a) market or sell cannabinoid product in Utah without an industrial hemp retail permit;~~

~~(b) distribute, market, or sell cannabinoid product that is not registered with the department;~~

~~(c) distribute or market a product that contains greater than 0.3% THC;~~

~~(d) distribute or market a cannabinoid product that is represented as a conventional food item or food additive;~~

~~(e) market or sell industrial hemp products without a valid retailer permit;~~

~~(f) refuse inspection of a retail establishment, product for sale, or a product storage area;~~

~~(g) sell cannabinoid products that:~~

~~(i) have any likeness bearing resemblance to a cartoon character or fictional character; or~~

~~(ii) appear to imitate a food or other product that is typically marketed toward or appealing to children; or~~

~~(h) knowingly or intentionally sell or give a cannabinoid product that contains THC or a THC analog to an individual who is not at least 21 years old.~~

~~KEY: industrial hemp, retailer permit~~
~~Date of Last Change: July 11, 2023~~
~~Authorizing, and Implemented or Interpreted Law: 4-2-103(1)(i); 4-41-103.3~~]

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	**R68-34**	**Filing ID: 56345**

Agency Information

1. Department:	Agriculture and Food
Agency:	Plant Industry
Building:	TSOB South Bldg, Floor 2
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO Box 146500
City, state and zip:	Salt Lake City, UT 84114-6500

Contact persons:		
Name:	**Phone:**	**Email:**
Amber Brown	385-245-5222	ambermbrown@utah.gov
Brandon Forsyth	801-710-9945	bforsyth@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov

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

General Information

2. Rule or section catchline:

R68-34. Educational Event and Educational Material Rules

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

This rule is being repealed so it can be simultaneously reenacted under a new title specific to medical cannabis and industrial hemp, Title R66.

4. Summary of the new rule or change:

This rule is repealed in its entirety so it can be reenacted under a new title specific to medical cannabis and industrial hemp.

The substantive content will remain the same under new Rule R66-7.

(EDITOR'S NOTE: The proposed new Rule R66-7 is under ID No. 56346 in this issue, April 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 proposed repeal does not have a fiscal impact to the state because the rule text is not changing between the repeal and the new rule.

It is reenacted as new Rule R66-7.

B) Local governments:

Local governments will not be impacted because they do not participate in the medical cannabis program.

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

This proposed repeal does not have a fiscal impact to small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed repeal does not have a fiscal impact to non-small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed repeal does not have a fiscal impact to other persons because the rule text is not changing between the repeal and the new rule.

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

Compliance costs are not impacted because the substance of the rule is not changing 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

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

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

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

Citation Information

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

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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024

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 W. Buttars, Commissioner	**Date:**	03/07/2024

R68. Agriculture and Food, Plant Industry.

[~~R68-34. Educational Event and Educational Material Rules.~~

~~R68-34-1. Authority and Purpose.~~

~~Pursuant to Subsections 4-41a-403(5)(a) through 4-41a-403(5)(c), this rule establishes the elements and restrictions on educational events a cannabis production establishment may hold for the public or medical providers, and provides guidelines for educational material shared at the events.~~

~~R68-34-2. Definitions.~~

~~1) "Educational event" means an event held by a cannabis production establishment or presented by a cannabis production establishment agent for the purpose of providing education about medical cannabis for the benefit of the public or medical providers.~~

~~2) "Educational material" means content distributed by a medical cannabis production establishment, cannabis production establishment agent, medical cannabis pharmacy agent, or qualified medical provider, whether in person or online. Educational material includes:~~

~~a) live or recorded content of an actual educational event;~~

~~b) printed material such as books, pamphlets, flyers, or business cards; and~~

~~c) online content.~~

~~**R68-34-3. Educational Material Standards.**~~

~~1) A presenter seeking to dispel false or misleading information about medical cannabis may include the false or misleading information in educational material if they also include a true statement regarding lawful cannabis use in Utah that dispels the false or misleading information.~~

~~2) Educational material shall include information relating to side effects, consequences, contraindications, and effectiveness of medical cannabis, and ensure that information relating to effectiveness is not presented in greater scope, depth, or detail than information relating to side effects, consequences, and contraindications.~~

~~3) Educational material standards assessed by the department include factors such as typography, layout, contrast, headlines, paragraphing, white space, and other techniques used to achieve emphasis.~~

~~4) Educational material is false or otherwise misleading if it:~~

~~a) contains a representation that a cannabis strain, brand, or product is more effective, useful in a broader range of conditions or patients, or safer than another drug or treatment, including other cannabis strains or product, unless the claim has been demonstrated by substantial evidence or substantial clinical data;~~

~~b) uses a quote or paraphrases information out of context or without citing conflicting information from the same source to convey a false or misleading idea;~~

~~c) uses a study on individuals without a qualifying medical condition without disclosing that the subjects were not suffering from a qualifying medical condition;~~

~~d) uses data to present a cannabis product favorably that is derived from patients treated with a different product or with dosages different from those legal in Utah;~~

~~e) contains favorable information or conclusions from a study that is inadequate in design, scope, or conduct to furnish significant support for the information or conclusions;~~

~~f) fails to disclose the source of the material with sufficient detail to enable participants to locate the material independently; or~~

~~g) fails to disclose that a study has not been subject to the peer review process.~~

~~5) Educational material shall not include:~~

~~a) an unsubstantiated health claim or claim that is not supported by substantial evidence or substantial clinical data;~~

~~b) information that encourages the use of cannabis for a condition other than a qualifying medical condition;~~

~~c) unprofessional terms, slang, phrasing, or verbiage associated with the recreational use of cannabis unless those terms are necessary to clarify or provide information valuable to the educational event participants, such as law enforcement officers, in identifying and educating individuals on common terms used by patients and other individuals to refer to cannabis and are presented in that context;~~

~~d) any image bearing resemblance to a cartoon character or fictional character whose target audience is children or minors;~~

~~e) content, symbol, or imagery that the cannabis production establishment knows or should know appeals to children;~~

~~f) imagery featuring a person using the product in any way;~~

~~g) any statement that encourages, promotes, or otherwise creates an impression that use of cannabis is legal or acceptable to use in a manner except as specifically authorized under Title 26, Chapter 61a, Utah Medical Cannabis Act;~~

~~h) any statement that recreational use of cannabis has any potential health or therapeutic benefits, or that recreational use or possession is legal in Utah or under federal law;~~

~~i) any recreationally oriented subject;~~

~~j) any content that might be considered dismissive of medical cannabis as approved to treat a qualifying medical condition;~~

~~k) content that promotes consumption in excess of the recommended dosage;~~

~~l) content targeting out-of state customers;~~

~~m) any statement that falsely disparages a competitor's product; or~~

~~n) any statement, design, or representation, picture or illustration that is obscene or indecent.~~

~~**R68-34-4. Educational Event Standards.**~~

~~1) Any attendee at an educational event held by a cannabis production establishment pursuant to Section 4-41a-403 shall be at least 21 years of age.~~

~~2) A presenter may address issues or questions posed during an educational event that clarify or provide educational material on the limits of cannabis use under Title 4, Chapter 41a, Cannabis Production Establishments or Title 26, Chapter 61a, Utah Medical Cannabis Act.~~

~~**R68-34-5. Department Review.**~~

~~1) Any educational event that falls under this rule must be disclosed to the department no less than 10 business days prior to the educational event.~~

~~2) A department employee may attend an educational event to verify compliance with state law and this rule.~~

~~3) The department may require that a cannabis production establishment provide copies of any educational material scheduled to be distributed at an educational event to:~~

~~a) verify that documents and materials are in compliance with Section 4-41a-403 and do not conflict with Title 26, Chapter 61a, Utah Medical Cannabis Act;~~

~~b) confirm the information presented is correct; and~~

~~c) pursuant to Subsection 4-41a-403(1), confirm that advertising is not included.~~

~~4) The department may require the cannabis production facility or presenter at an educational event to change the presentation and materials to comply with state laws and this rule.~~

~~**KEY: cannabis, educational event**~~
~~**Date of Last Change: January 8, 2021**~~
~~**Authorizing, and Implemented or Interpreted Law: 4-41a-403(5)(a) through 4-41a-403(5)(c)]**~~

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	**R68-35**	**Filing ID: 56347**

Agency Information

1. Department:	Agriculture and Food
Agency:	Plant Industry
Building:	TSOB South Bldg, Floor 2

Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	**Phone:**	**Email:**
Amber Brown	385-245-5222	ambermbrown@utah.gov
Brandon Forsyth	801-710-9945	bforsyth@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R68-35. Academic Medical Cannabis Research

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

This rule is being repealed so it can be simultaneously reenacted under a new title specific to medical cannabis and industrial hemp, Title R66.

4. Summary of the new rule or change:

This rule is repealed in its entirety so it can be reenacted under a new title specific to medical cannabis and industrial hemp.

The substantive content will remain the same under new Rule R66-8.

(EDITOR'S NOTE: The proposed new Rule R66-8 is under ID No. 56348 in this issue, April 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 proposed repeal does not have a fiscal impact to the state because the rule text is not changing between the repeal and the new rule.

It is reenacted as new Rule R66-8.

B) Local governments:

Local governments will not be impacted because they do not participate in the medical cannabis program.

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

This proposed repeal does not have a fiscal impact to small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed repeal does not have a fiscal impact to non-small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed repeal does not have a fiscal impact to other persons because the rule text is not changing between the repeal and the new rule.

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

Compliance costs are not impacted because the substance of the rule is not changing 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

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

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

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

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

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024

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 W. Buttars, Commissioner	**Date:**	03/07/2024

R68. Agriculture and Food, Plant Industry.
[~~R68-35. Academic Medical Cannabis Research.~~
~~R68-35-1. Authority and Purpose.~~

~~Pursuant to Section 4-41a-901, this rule establishes the process by which a research university may obtain, cultivate, process, and possess cannabis for academic medical cannabis research.~~

~~R68-35-2. Definitions.~~

~~1) "Applicant" means a person from a research university who applies for a research license from the Utah Department of Agriculture and Food.~~

~~2) "Batch" means a quantity of:~~

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

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

~~c) cannabis flower packaged on a particular date and time, following clean up until the next clean up during which lots of cannabis are being used.~~

~~3) "Cannabis" means any part of the marijuana plant.~~

~~4) "Cannabis concentrate" means:~~

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

~~b) any amount of a natural, derivative, or synthetic cannabinoid in its purified state.~~

~~5) "Cannabis Product" means a product that:~~

~~a) is intended for human use; and~~

~~b) contains cannabis or tetrahydrocannabinol.~~

~~6) "Department" means the Utah Department of Agriculture and Food.~~

~~7) "License" means a license issued by the Utah Department of Agriculture and Food to a research university granting authorization to obtain cannabis from a cannabis production establishment or another research licensee to cultivate, process, and possess cannabis for research purposes.~~

~~8) "Licensee" means a person authorized by the department to obtain, cultivate, process, and possess cannabis for the purpose of research.~~

~~9) "Lot" means the quantity of:~~

~~a) flower produced on a particular date and time, following clean up until the next clean up during which the same materials are used; or~~

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

~~10) "Research" means academic medical cannabis research or the study of cannabis for the purpose of developing useful processes, information, and products.~~

~~11) "Research Plan" means a plan stating the objective and purpose of the proposed academic medical cannabis research including each method and procedure for carrying out the research.~~

~~12) "Research Location" means the area of a research university where academic medical cannabis research takes place.~~

~~13) "Security Plan" means a plan to control and limit unauthorized access to cannabis and methods used to prevent diversion of cannabis.~~

~~14) "Total THC" means the sum of the determined amounts of delta-9-THC and delta-9-THCA, according to the formula: Total THC = delta-9-THC + (delta-9-THCA x 0.877).~~

~~R68-35-3. Research License Requirements.~~

~~1) No applicant may possess any cannabis until the applicant is notified that their research license has been approved by the department.~~

~~2) An applicant shall be 21 years of age or older.~~

~~3) An applicant shall be employed by a research university.~~

4) The department may not issue a license to an applicant if they have been convicted of a drug-related felony within the last ten years.

5) An applicant shall submit to the department:

a) the name, email address, and telephone number of the principal investigator responsible for the:

i) procurement of cannabis;

ii) use and secure storage of the cannabis; and

iii) the management of the research;

b) the institution's name and address;

c) the name of each individual with access to cannabis material;

d) a research plan;

e) the research location;

f) the name and address of each cannabis production establishment or licensee from which the applicant intends to obtain cannabis; and

g) a security plan.

6) Each applicant for a license shall submit to the department, at the time of application, from each individual who will handle cannabis as part of the research, a nationwide criminal history from the FBI completed within three months of the application.

7) An applicant shall submit a research license fee as approved by the legislature in the fee schedule.

8) Prior to issuing a license the department shall inspect the proposed research location to determine if the applicant complies with state law and this rule.

9) An incomplete or incorrect application will be rejected and not considered by the department.

R68-35-4. Research Plan Requirements.

1) An applicant is responsible for ensuring that no information is included in a research plan that may compromise the applicant's ability to secure patent, trade secret, or other intellectual property protection.

2) Each research plan shall be submitted by a person who has the legal authority to represent the research university.

3) Each research plan shall be submitted to the department in a legible PDF format.

4) Each individual involved in research shall be considered an agent of the licensee.

5) A research plan is limited to twelve pages, not including references or citations, and should include the following information, in addition to the requirements of Section R68-35-2:

a) the purpose and goal of the proposed research;

b) each key milestone and timeline for the research;

c) background and preliminary studies, if applicable;

d) the amount and type of cannabis to be obtained for the research project including the justification with respect to each milestone task;

e) the anticipated cost of the proposed research project and funding source;

f) personnel that will be involved in the project, including each name and role;

g) facilities, equipment, and other resources required and available for conducting the proposed research project;

h) letters of support, limited to two pages each, confirming the commitment of time and resources from external personnel or organizations if external personnel or organizations will participate in research activities under an approved research project; and

i) any additional information requested by the department.

6) Each license will be issued by the Cannabis Production Establishment Licensing Board.

R68-35-5. Inventory and Recordkeeping Requirements.

1) A licensee shall maintain an organized filing system so cannabis records can be easily obtained when requested by the department.

2) Each record related to research shall be maintained by the licensee and available for inspection by the department for a minimum of two years following the completion of the project.

3) The licensee shall maintain a current inventory and record of the disposition of materials for cannabis, cannabis plant product, cannabis concentrate, and cannabis product on hand.

4) A licensee shall take necessary measures to avoid the diversion of cannabis, cannabis concentrate, or cannabis product.

R68-35-6. Research Limitations.

1) A licensee is restricted to only research specified in an approved research plan.

2) An amendment to an approved research requires the resubmission and approval of the documents listed in Section R68-35-4 and the reason for the amendment.

R68-35-7. Transportation.

1) A printed transport manifest shall accompany each transport of cannabis.

2) The manifest shall contain the following information:

a) the licensee's address and license number of the departure location;

b) the physical address and license number of the receiving location;

c) the strain name, quantity by weight, and unique identification number from the inventory control system of cannabis to be transported;

d) the date and time of departure;

e) the estimated date and time of arrival; and

f) the name and signature of each licensee or agent accompanying the cannabis.

3) The transport manifest may not be voided or changed after departure.

4) A copy of the transport manifest shall be given to the receiving location.

5) The receiving location shall ensure that the cannabis received is as described in the transport manifest and shall record the amount received for each strain.

6) The receiving location shall document at time of receipt any difference between the quantity specified in the transport manifest and the quantity received and recorded. Any difference shall be immediately reported to the department.

7) During transportation, cannabis shall be:

a) shielded from the public view;

b) secured; and

c) temperature controlled if perishable.

8) A licensee shall contact the department within 24 hours if a vehicle transporting cannabis is involved in an accident that involves product loss.

9) A licensee or an agent of a licensee shall occupy each transporting vehicle. No other individual may occupy a transporting vehicle.

R68-35-8. Inspection and Testing.

1) A licensee shall provide the department with written consent allowing a representative of the department or local law enforcement to enter any premises where a licensee possesses or stores cannabis for the purpose of:

a) conducting a physical inspection; or

b) ensuring compliance with the requirements of state law and this rule.

2) Cultivation or processing based research that does not involve testing on any human or animal subject, is not subject to the testing requirements of Section R68-29-3.

R68-35-9. Minimum Storage and Handling Requirements.

1) Each storage area shall be maintained in a clean and orderly condition.

2) A licensee shall store cannabis, cannabis concentrate, or cannabis product in a manner so as to prevent diversion, theft, or loss.

3) A licensee shall make cannabis, cannabis concentrate, and cannabis product accessible only to the minimum number of specifically authorized agents of the licensee essential for efficient operation and shall return the cannabis, cannabis concentrate, or cannabis product to its secure location immediately after completion of the process or at the end of the scheduled business day.

4) If a research process cannot be completed at the end of a working day, a licensee shall securely lock the processing area or tanks, vessels, bins, or bulk containers containing cannabis inside an area or room that affords adequate security.

R68-35-10. Cannabis Waste Disposal.

1) A licensee shall dispose of cannabis, cannabis concentrate, or cannabis product if research is discontinued for any reason.

2) Solid and liquid waste generated during research shall be stored, managed, and disposed of in accordance with applicable state law and rules under Title R68.

3) Wastewater shall be disposed of in compliance with applicable state law and rules under Title R68.

4) Cannabis waste shall be rendered unusable prior to leaving the research location.

5) Cannabis waste, that is not designated as hazardous, shall be rendered unusable by grinding and incorporating the cannabis waste with other ground materials so the resulting mixture is at least fifty percent non-cannabis waste by volume or other methods approved by the department before implementation.

6) Material used to grind and incorporate with cannabis fall into two categories:

a) compostable; or

b) non-compostable.

7) Compostable waste is cannabis waste to be disposed of as compost or in another organic waste method mixed with:

a) food waste;

b) yard waste; or

c) vegetable-based grease or oils.

8) Non-compostable waste is cannabis waste to be disposed of in a landfill or another disposal method, such as incineration, mixed with:

a) paper waste;

b) cardboard waste;

c) plastic waste; or

d) soil.

R68-35-11. Security Plan.

1) A licensee's security plan shall conform to the following requirements:

a) a licensee shall provide effective controls and procedures to guard against theft and diversion of cannabis;

b) a licensee shall store cannabis in a securely locked, substantially constructed cabinet;

c) a licensee shall not employ, as an agent or employee who has access to cannabis, any person who has been convicted of a drug-related felony in the last 10 years or is not at least 21 years of age; and

d) a licensee shall notify the department of any theft or significant loss of any cannabis within 24 hours from the discovery of the loss or theft.

R68-35-12. Renewal.

1) A licensee shall resubmit each document required in Sections R68-35-3 and R68-35-4, with updated information, before December 31st of each year including a report detailing the progress of the research.

2) The department may deny a renewal for incomplete documentation.

3) The department may deny renewal for any licensee that has violated any portion of this rule or state law.

R68-35-13. Violations.

1) It is a violation for a licensee to store or process cannabis, cannabis concentrate, or cannabis product on a site not approved by the department as part of the license.

2) It is a violation for a licensee to process cannabis, cannabis concentrate, or cannabis product from a source that is not licensed by the department.

3) A licensee's research for the U.S. Drug Enforcement Administration (DEA) or another law enforcement agency is exempt from Subsections R68-35-13(1) or R68-35-13(2).

4) A licensee shall maintain each requirement of their security plan and may not allow unsupervised public access to an area where cannabis, cannabis concentrate, or cannabis product is stored or processed.

5) A licensee may not deny an official of the department access for sampling or inspection purposes.

6) It is a violation of this rule to handle or possess cannabis without a license from the department.

7) It is a violation for a licensee to employ a person under the age of 21 in the processing or handling of cannabis or a cannabis product.

8) It is a violation to fail to keep a record required by this rule.

9) It is a violation to allow an employee that has been convicted of a drug-related felony in the last ten years access to cannabis or cannabis product.

10) It is a violation to operate outside of the scope of the research project approved under the license.

11) It is a violation to make changes to a research plan or research location without prior approval from the department.

R68-35-14. Violation Categories.

1) Public Safety Violations: Each person is fined $3,000-$5,000 per violation. This category is for violations that present a direct threat to public health or safety including:

~~a) cannabis sold to an unlicensed source;~~
~~b) cannabis purchased from an unlicensed source;~~
~~c) refusal to allow inspection;~~
~~d) unauthorized personnel on the premises;~~
~~e) permitting criminal conduct on the premises; or~~
~~f) engaging in or permitting a violation of the Title 4, Chapter 41a, Cannabis Production Establishments, that amounts to a public safety violation as described in this Subsection.~~
~~2) Regulatory Violations: Each person is fined $1,000-$5,000 per violation. This category is for violations involving this rule and other applicable state rules under Title R68 including:~~
~~a) failure to follow approved security plan;~~
~~b) failure to keep and maintain records;~~
~~c) failure to follow transportation requirements;~~
~~d) failure to follow the waste and disposal requirements; or~~
~~e) engaging in or permitting a violation of Title 4, Chapter 41a, Cannabis Production Establishments. this rule, or other applicable state rules under Title R68 that amounts to a regulatory violation as described in this subsection.~~
~~3) Licensing Violations: Each person is fined $500 - $5,000 per violation. This category is for violations involving research license requirements including:~~
~~a) an unauthorized change to the research plan;~~
~~b) failure to notify the department of changes to the research plan;~~
~~c) engaging in or permitting a violation of this rule or Title 4, Chapter 41a, Cannabis Production Establishments that amounts to a licensing violation as described in this Subsection; or~~
~~d) failure to respond to a violation.~~
~~4) The department shall calculate penalties based on the level of violation and the adverse effect or potential adverse effect at the time of the incident giving rise to the violation.~~

~~KEY: cannabis, research~~
~~Date of Last Change: January 22, 2021~~
~~Authorizing, and Implemented or Interpreted Law: 4-41a-901~~]

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	**R68-36**	**Filing ID: 56368**

Agency Information

1. Department:	Agriculture and Food
Agency:	Plant Industry
Building:	TSOB South Bldg, Floor 2
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO Box 146500
City, state and zip:	Salt Lake City, UT 84114-6500

Contact persons:		
Name:	**Phone:**	**Email:**
Amber Brown	385-245-5222	ambermbrown@utah.gov
Brandon Forsyth	801-710-9945	bforsyth@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R68-36. Industrial Hemp Testing Laboratory
3. Purpose of the new rule or reason for the change:
This rule is being repealed so it can be simultaneously reenacted under a new title specific to medical cannabis and industrial hemp, Title R66.
4. Summary of the new rule or change:
This rule is repealed in its entirety so it can be reenacted under a new title specific to medical cannabis and industrial hemp. The substantive content will remain the same under new Rule R66-32. (EDITOR'S NOTE: The proposed new Rule R66-32 is under ID No. 56356 in this issue, April 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 proposed repeal does not have a fiscal impact to the state because the rule text is not changing between the repeal and the new rule. It is reenacted as new Rule R66-32.
B) Local governments:
Local governments will not be impacted because they do not participate in the medical cannabis program.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**
This proposed repeal does not have a fiscal impact to small businesses because the rule text is not changing between the repeal and the new rule.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
This proposed repeal does not have a fiscal impact to non-small businesses because the rule text is not changing between the repeal and the new rule.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
This proposed repeal does not have a fiscal impact to other persons because the rule text is not changing between the repeal and the new rule.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**
Compliance costs are not impacted because the substance of the rule is not changing 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

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

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

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024
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 W. Buttars, Commissioner	**Date:**	03/11/2024

R68. Agriculture and Food, Plant Industry.
[~~R68-36. Industrial Hemp Testing Laboratory.~~
~~R68-36-1. Authority and Purpose.~~

~~1) Pursuant to Section 4-41-103.4, this rule establishes the application process, qualifications, and requirements to obtain and maintain an industrial hemp testing laboratory permit.~~

~~R68-36-2. Definitions.~~

~~1) "Acceptable hemp THC level" means a total composite tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis if laboratory testing confirms a result within a measurement of uncertainty that includes the total composite tetrahydrocannabinol concentration of 0.3%.~~

2) "Applicant" means any person or business entity who applies for an industrial hemp testing laboratory permit.

3) "Batch" means a quantity of:

a) industrial hemp extract produced on a particular date and time, following clean up until the next clean up during which lots of industrial hemp are used;

b) industrial hemp product produced on a particular date and time, following clean up to the next clean up during which industrial hemp extract is used; or

c) industrial hemp dried and cured on a particular date and time

4) "Cannabinoid product" means a chemical compound extracted from a hemp product that:

a) is processed into a medicinal dosage form; and

b) contains an acceptable hemp THC level.

5) "CBD" means cannabidiol.

6) "Department" means the Utah Department of Agriculture and Food.

7) "DEA registration" means a laboratory that has an active registration and is certified to handle controlled substances as an industrial hemp testing laboratory with the Drug Enforcement Authority (DEA).

8) "Industrial hemp testing laboratory" means a facility or business who:

a) conducts a chemical or other analysis of industrial hemp or an industrial hemp product; or

b) acquires, possesses, and transports industrial hemp or industrial hemp product with the intent to conduct a chemical or other analysis of the industrial hemp or industrial hemp product.

9) "Industrial hemp" means any part of a cannabis plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis.

10) "Industrial hemp testing laboratory permit" means a permit that the department issues to a laboratory qualified to test industrial hemp under the state hemp production plan.

11) "Industrial hemp retailer permit" means a permit that the department issues to a retailer who sells or markets any industrial hemp product.

12) "Industrial hemp product" means a product derived from, or made by processing industrial hemp plants or industrial hemp plant parts.

13) "Licensee" means a person authorized by the department to grow, process or possess industrial hemp.

14) "Lot" means the hemp crop acreage designated by a licensed hemp grower and as reported in the grower report.

15) "Measurement of Uncertainty" means the parameter associated with the result of a measurement that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to measurement.

16) "Non-compliant material" means a hemp plant or hemp product that does not comply with Title 4, Chapter 41, Hemp and Cannabinoid Act, including a cannabis plant or product that contains a concentration of 0.3% tetrahydrocannabinol or greater by dry weight.

17) "Remediated Biomass" means hemp that has failed an initial test that is combined with shredded plant material for the purpose of remediation.

18) "Tetrahydrocannabinol" or "THC" means total composite tetrahydrocannabinol, including delta-9 tetrahydrocannabinol, tetrahydrocannabinolic acid, and any THC analogs as defined in Subsection 58-37-4(2)(a)(iii)(AA).

R68-36-3. Industrial Hemp Testing Laboratory Permit.

1) An applicant wishing to test industrial hemp shall apply on a form provided by the department for a permit to become an industrial hemp testing laboratory.

2) An industrial hemp testing laboratory permit shall allow a laboratory to receive industrial hemp or industrial hemp product from a licensed industrial hemp grower or processor in order to conduct compliance testing as required by Section 4-41-103.1, Rule R68-22, and Sections R68-24-6, R68-25-9, R68-26-4, R68-26-6, and R68-32-8.

3) An industrial hemp testing laboratory permit shall allow a laboratory to receive industrial hemp from a licensed industrial hemp grower or processor to conduct non-compliance testing as requested by the licensee.

4) A complete application shall include:

a) the required fee as approved by the legislature in the fee schedule;

b) a copy of a current DEA registration; and

c) statements, forms, diagrams, operation plans, and other applicable documents required in the application packet to be accepted and processed by the department.

5) Prior to approving an application, the department may contact any applicant and request additional supporting documentation or information.

6) Prior to issuing an industrial hemp testing laboratory permit, the department shall inspect the proposed premises to determine if the applicant complies with state law.

7) The department may conduct face-to-face interviews with an applicant if needed to determine the best-qualified applicants for the number of permits needed.

8) An industrial hemp testing laboratory permit shall expire on December 31 of the year of issue.

9) An industrial hemp testing laboratory permit may not be sold or transferred.

R68-36-4. Industrial Hemp Testing Laboratory Requirements.

1) On or after January 1, 2022, an industrial hemp testing laboratory shall be registered with the DEA in accordance with the Controlled Substances Act, 21 USC 823 (f), 21 CFR 1301.13, and 7 CFR 990.

2) An industrial hemp testing laboratory shall:

a) establish written standard operating procedures (SOPs) for each test being conducted;

b) establish an internal SOP that shall address testing and retesting industrial hemp material;

c) ensure that any SOPs are consistent with Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control, 2014 Revisions, published by the American Herbal Pharmacopoeia;

d) establish quality assurance protocols that:

i) ensure the validity and reliability of test results;

ii) ensure consistent, accurate, analytical performance; and

iii) include an effective disposal procedure, in accordance with state and federal laws for non-compliant samples;

e) require grinding of any pre- or post-harvest testing sample to ensure homogeneity of plant material prior to testing;

f) ensure that:

i) pre-harvest testing measures the total THC concentration in a sample submitted for analysis;

ii) the laboratory performs chemical analysis on the sample using post-decarboxylation or other similarly reliable methods where total THC concentration level considers the potential to convert delta-9 tetrahydrocannabinolic acid (THCA) into THC;

ii) test results reflect the total available THC derived from the sum of the THC and THCA content; and

iii) testing of final products measures total composite tetrahydrocannabinol, and that the total delta-9 tetrahydrocannabinol concentration level is determined and reported on a dry weight basis;

h) calculate and include the measurement of uncertainty when THC concentration test results are reported and that:

i) the method used to calculate the measurement of uncertainty may include one listed in the AOAC Standard Method Performance Requirements 2019.003 found at https://www.aoac.org/resources/smpr-2019003/, or any equivalent method approved by the department;

ii) the measurement of uncertainty is estimated and reported with test results;

iii) each industrial hemp testing laboratory uses appropriate, validated methods and procedures for testing activities and evaluating the measurement of uncertainty; and

iv) the range of the measurement of uncertainty is reported as a +/- value and uses the same unit as the hemp THC threshold, such as +/- 0.05, following best practices for significant figures and rounding;

i) follow validated analytical methods, such as those published by AOAC, American Herbal Pharmacopoeia, the Environmental Protection Agency (EPA), the Food and Drug Administration (FDA), or another reputable scientific organization, or notify the department of an alternative scientifically valid testing methodology the lab is following for each required test:

i) an industrial hemp testing laboratory may not use an alternative testing method without prior review from the department;

ii) an alternative testing protocol shall only be considered if it is comparable to the baseline mandated in the 2018 Farm Bill and established under the United States Department of Agriculture (USDA) Final Rule establishing a Domestic Hemp Production Program published at 7 CFR Part 990;

iii) alternative procedures shall be validated by the USDA in writing;

iv) the department shall review any monograph or analytical method followed by an industrial hemp testing laboratory to ensure the methodology produces scientifically accurate results prior to the use of an alternative testing methods to conduct the required tests; and

v) method performance specifications shall ensure analytical tests are sufficiently sensitive for the purposes of the detectability requirements of this rule;

j) provide the department with documentation showing that the industrial hemp testing laboratory has obtained and maintained the International Organization for Standardization (ISO) 17025:2017 accreditation. An industrial hemp testing laboratory may be permitted prior to ISO 17025:2017 accreditation provided the industrial hemp testing laboratory:

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

ii) becomes ISO 17025:2017 accredited within 18 months.

3) The department incorporates the following materials by reference:

a) Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control, 2014 Revisions, published by the American Herbal Pharmacopoeia; and

b) OECD Principles of Good Laboratory Practice and Compliance Monitoring, 1997 version, published by the Organization for Economic Co-operation and Development.

R68-36-5. Information Sharing.

1) An industrial hemp testing laboratory performing THC testing to ensure compliance with this rule shall share the test results with the licensee, the department, and the USDA.

2) An industrial hemp testing laboratory shall:

a) report each test result, whether passing or failing;

b) ensure that each testing report used to determine compliance shall be marked "official compliance test";

c) ensure that any THC testing used for the purpose of monitoring THC levels throughout the growing season should not be marked "official compliance test";

d) ensure that any testing that shows THC levels above 1% are provided to the department; and

e) retain a legible copy of each test result marked as an "official compliance test" for a period of three years from the date of analysis and is made available to the department upon request.

R68-36-6. Security Requirements.

1) An industrial hemp testing laboratory shall have a locked and secured storage area with limited access provided only to employees that are approved to access non-compliant material.

2) Any material shall be stored in the locked and secured area until it can be destroyed according to the industrial hemp testing laboratory disposal plan.

3) An industrial hemp testing laboratory shall identify each employee who will have access to noncompliant material.

4) An industrial hemp testing laboratory shall provide a nationwide criminal history from the FBI, completed within three months of the application, for each employee who will have access to noncompliant material.

R68-36-7. Test Results Exceeding 0.3% THC Concentration in Pre-Harvest Testing.

1) Any sample test result where the total THC concentration of the sample is higher than the acceptable hemp THC level shall be conclusive evidence that one or more cannabis plants or plant products from the lot represented by the sample contain a THC concentration in excess of that allowed.

2) If the results of a test conclude that the THC concentration levels of a sample are higher than the acceptable hemp THC level, the industrial hemp testing laboratory shall promptly notify the producer, the department and the USDA.

3) A noncompliant sample may be re-tested, at the expense of the licensee, if they believe that the original THC concentration levels were in error.

4) An industrial hemp testing laboratory shall follow the same procedures used in the initial test for any retests.

5) Re-test results will be shared with the licensee, the department, and the USDA.

6) If the industrial hemp material is >1% total THC content the industrial hemp testing laboratory must notify law enforcement.

7) Remediated biomass submitted for official compliance testing shall follow the same procedures used to conduct the initial test.

R68-36-8. Inventory Log Failed Samples.

1) Industrial hemp samples submitted to the industrial hemp testing laboratory that are noncompliant shall be tracked and monitored in an inventory log until each laboratory test has been completed.

2) The inventory log under Subsection (1) shall include the following:

a) the date and time the test sample was received;

b) each sample used for testing and the test results;

c) the identity of the agent conducting the test;

d) the weight and disposal of the noncompliant materials;

e) the identity of who disposed of the noncompliant material; and

f) any theft or loss or suspected theft or loss of noncompliant material.

R68-36-9. Destruction of Noncompliant Material.

1) An industrial hemp testing laboratory shall destroy any noncompliant material in accordance with state and federal laws and regulations.

2) The noncompliant material shall be rendered unusable prior to leaving the industrial hemp testing laboratory.

3) Noncompliant material shall be rendered unusable by grinding and incorporating the noncompliant material with other ground materials so the resulting mixture is at least fifty percent non-hemp waste by volume or by other methods approved by the department before implementation.

4) Materials used to grind and incorporate with noncompliant hemp material fall into two categories:

a) compostable; or

b) non-compostable.

5) Compostable waste is hemp waste to be disposed of as compost or in another organic waste method mixed with:

a) food waste;

b) yard waste; or

c) vegetable-based grease or oils.

6) Non-compostable waste is industrial hemp waste to be disposed of in a landfill or another disposal method, such as incineration, mixed with:

a) paper waste;

b) cardboard waste;

c) plastic waste; or

d) soil.

7) If a laboratory needs to transport noncompliant material they must first obtain a transport permit from the department.

8) Noncompliant material may be held by a laboratory for no longer than 90 days.

R68-36-10. Change in Operation Plans.

1) An independent hemp testing laboratory shall notify the department prior to making any changes to:

a) the facility's name;

b) a location;

c) testing methods, equipment, remodeling, expansion, reduction or physical, non-cosmetic alteration of the lab; or

d) written operating procedures.

2) An industrial hemp testing laboratory may not implement changes to the approved operation plan without department approval.

3) The department shall respond to the request for changes within 15 business days.

4) The department shall approve requested changes unless approval would lead to a violation of the applicable laws and rules of the state.

5) The department shall specify the reason for the denial of a change to the operation plan.

R68-36-11. Renewals.

1) A licensee shall resubmit the documents required in Section R68-36-3 with updated information, before December 31st of the current year.

2) The department may deny a renewal for an incomplete application.

3) The department may deny renewal for any licensee who has violated any portion of this rule or state law.

4) If the industrial hemp testing laboratory DEA registration expires or is revoked by the DEA, the industrial hemp testing permit issued by the department shall also be revoked.

5) The department shall renew a permit unless renewal would lead to a violation of the applicable laws and rules of the state.

R68-36-12. Proficiency Testing.

1) The department shall establish a proficiency testing program for hemp testing laboratories.

2) Each laboratory shall participate in the designated proficiency testing program with satisfactory performance as determined by the department.

R68-36-13. Violation Categories.

Pursuant to Title 4, Chapter 2, Administration, the department may issue the following violations:

1) Public Safety Violations: $3,000 - $5,000 per violation. This category is for violations that present a direct threat to public health or safety including:

a) refusal to allow inspection;

b) refusal to participate in proficiency testing;

c) failure to comply with testing requirements;

d) failure to report testing results;

e) unauthorized personnel on the premises;

f) permitting criminal conduct on the premises;

g) engaging in or permitting a violation of Title 4, Chapter 41,Hemp and Cannabinoid Act, that amounts to a public safety violation as described in this subsection.

2) Regulatory Violations: $1,000 - $5,000 per violation. This category is for violations involving this rule and other applicable state rules including:

a) failure to maintain DEA registration;

c) failure to keep and maintain records;

d) failure to follow the waste and disposal requirements; or

e) engaging in or permitting a violation of Title 4, Chapter 411, Hemp and Cannabinoid Act, or this rule that amounts to a regulatory violation as described in this subsection.

3) Permitting Violations: $500 -$5,000 per violation. This category is for violations involving industrial hemp testing laboratory permitting requirements including:

a) an unauthorized change to the operating plan;

b) failure to notify the department of changes to the operating plan;

c) failure to follow the operating plan as approved by the department;

~~d) engaging in or permitting a violation of this rule or Title 4, Chapter 4, Hemp and Cannabinoid Act that amounts to a licensing violation as described in this subsection; or~~

~~e) failure to respond to violations.~~

~~4) The department shall calculate penalties based on the level of violation, and the adverse effect or potential adverse effect at the time of the incidents giving rise to the violation.~~

~~**KEY: industrial hemp laboratory, industrial hemp testing**~~
~~**Date of Last Change: September 1, 2021**~~
~~**Authorizing, and Implemented or Interpreted Law: 4-41-103.4**~~**]**

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	**R68-37**	**Filing ID: 56353**

Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
Building:	TSOB South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	**Phone:**	**Email:**
Amber Brown	385-245-5222	ambermbrown@utah.gov
Brandon Forsyth	801-710-9945	bforsyth@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R68-37. Industrial Hemp Cannabinoid Product Testing

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

This rule is being repealed so it can be simultaneously reenacted under a new title specific to medical cannabis and industrial hemp, Title R66.

4. Summary of the new rule or change:

This rule is repealed in its entirety so it can be reenacted under a new title specific to medical cannabis and industrial hemp.

The substantive content will remain the same under new Rule R66-31.

(EDITOR'S NOTE: The proposed new Rule R66-31 is under ID No. 56354 in this issue, April 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 proposed repeal does not have a fiscal impact to the state because the rule text is not changing between the repeal and the new rule.

It is reenacted as new Rule R66-31.

B) Local governments:

Local governments will not be impacted because they do not participate in the medical cannabis program.

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

This proposed repeal does not have a fiscal impact to small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed repeal does not have a fiscal impact to non-small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed repeal does not have a fiscal impact to other persons because the rule text is not changing between the repeal and the new rule.

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

Compliance costs are not impacted because the substance of the rule is not changing 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

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

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

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

Citation Information

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

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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024

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 W. Buttars, Commissioner	**Date:**	03/07/2024

R68. Agriculture and Food, Plant Industry.

[~~R68-37. Industrial Hemp Cannabinoid Product Testing.~~

~~R68-37-1. Authority and Purpose.~~

~~1) Pursuant to Subsection 4-41-204(2), this rule establishes the standards for industrial hemp cannabinoid product potency testing and sets limits for foreign matter, microbial life, pesticides, residual solvents, heavy metals, and mycotoxins.~~

~~R68-37-2. Definitions.~~

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

~~a) pesticides;~~

~~b) heavy metals;~~

~~c) solvents;~~

~~d) microbial life;~~

~~e) mycotoxins; or~~

~~f) foreign matter.~~

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

~~3) "Batch or lot" means a quantity of:~~

~~a) cannabinoid concentrate produced on a particular date and time, following clean up until the next clean up during which the same lots of industrial hemp are used; or~~

~~b) cannabinoid product produced on a particular date and time, following clean up until the next clean up during which industrial hemp concentrate is used.~~

~~4) "Cannabinoid" means any:~~

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

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

~~5) "Cannabinoid concentrate" means:~~

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

~~b) any amount of a natural, derivative, or synthetic cannabinoid in the synthetic cannabinoid's purified state.~~

~~6) "Cannabinoid product" means the same as the term is defined in Subsection 4-41-102(1).~~

~~7) "Cannabinoid product THC level" means a combined concentration of total THC and any THC analog of less than 0.3% on a dry weight basis if laboratory testing confirms a result within a measurement of uncertainty that includes the combined concentration of 0.3%.~~

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

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

10) "Certificate of analysis" (COA) means a document produced by a testing laboratory listing the results for which that testing was performed.

11) "Department" means the Utah Department of Agriculture and Food.

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

13) "Foreign matter" means:

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

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

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

15) "Industrial hemp manufacturer" means an entity that holds, stores, packages, or labels an industrial hemp cannabinoid product.

16) "Pest" means:

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

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

17) "Pesticide" means any:

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

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

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

18) "THC" means total composite tetrahydrocannabinol, including delta-9-tetrahydrocannabinol, tetrahydrocannabinolic acid, and any THC analogs as defined in Subsection 58-37-4(2)(a)(ii)(AA).

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

20) "Total CBD" means the sum of the determined amounts of CBD and CBDA, according to the formula: Total CBD = CBD + (CBDA x 0.877).

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

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

R68-37-3. Required Cannabinoid Product Tests.

1) An industrial hemp manufacturer may not register or sell a cannabinoid product unless a third party testing laboratory has tested a representative sample of the cannabinoid product to determine:

a) the amount of any THC analogs present in the sample; and

b) the presence of adulterants in the sample.

2) A certificate of analysis shall be included with each batch of cannabinoid product in accordance with Section R68-26-4.

R68-37-4. Foreign Matter Standards.

A sample and related batch of cannabinoid product fails quality assurance testing if:

1) the sample contains foreign matter visible to the unaided human eye;

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

3) foreign matter is found that is suspected to have been intentionally added to the sample to increase its visual appeal or market value.

R68-37-5. Potency Testing and Standards.

1) A batch of cannabinoid product shall have the following determined and listed on the COA:

a) quantity of any cannabinoid it is known to contain, including any THC analog; and

b) the cannabinoid profile by percentage of mass.

2) Cannabinoid products shall not exceed the cannabinoid product THC level.

R68-37-6. Microbial Standards.

A sample and related batch of cannabinoid product fails quality assurance testing for microbiological contaminants if the results exceed the limits as set forth in Table 1.

TABLE 1
Microbial Analytes and Action Levels

Material	Microbial Limit Requirement (cfu)
Cannabinoid Concentrate	Total Aerobic Microbial Count ≤100,000 Absence of E. Coli and Salmonella spp. Absence of Aspergillus fumigatus, Aspergillus flavus, Aspergillus niger, and Aspergillus terreus
Orally Consumable Products	Total Aerobic Microbial Count ≤10,000 Total Combined Yeast and Mold Count ≤1,000 Absence of E. Coli and Salmonella spp. Absence of Staph
Transdermal Products	Total Aerobic Microbial Count ≤250 Total Yeast and Mold ≤250 Absence of Pseudomonas Absence of Staph

R68-37-7. Pesticide Standards.

1) A sample and related batch of cannabinoid product fails quality assurance testing for pesticides if the results exceed the limits as set forth in Table 2.

TABLE 2 Pesticide Analytes and Action Levels		
Analyte	Chemical Abstract Service	Action Level
	(CAS) Registry number	ppm
Abamectin	71751-41-2	0.5
Acephate	30560-19-1	0.4
Acequinocyl	57960-19-7	2
Acetamiprid	135410-20-7	0.2
Aldicarb	116-06-3	0.4
Azoxystrobin	131860-33-8	0.2
Bifenazate	149877-41-8	0.2
Bifenthrin	82657-04-3	0.2
Boscalid	188425-85-6	0.4
Carbaryl	63-25-2	0.2
Carbofuran	1563-66-2	0.2
Chlorantraniliprole	500008-45-7	0.2
Chlorfenapyr	122453-73-0	1
Chlorpyrifos	2921-88-2	0.2
Clofentezine	74115-24-5	0.2
Cypermethrin	52315-07-8	1
Daminozide	1596-84-5	1
DDVP (Dichlorvos)	62-73-7	0.1
Diazinon	333-41-5	0.2
Dimethoate	60-51-5	0.2
Ethoprophos	13194-48-4	0.2
Etofenprox	80844-07-1	0.4
Etoxazole	153233-91-1	0.2
Fenoxycarb	72490-01-8	0.2
Fenpyroximate	134098-61-6	0.4
Fipronil	120068-37-3	0.4
Flonicamid	158062-67-0	1
Fludioxonil	131341-86-1	0.4
hexythiazox	78587-05-0	1
imazalil	35554-44-0	0.2
Imidacloprid	138261-41-3	0.4
Kresoxim-methyl	143390-89-0	0.4
Malathion	143390-89-0	0.2
Metalaxyl	57837-19-1	0.2
Methiocarb	2032-65-7	0.2
Methomyl	16752-77-5	0.4
Methyl parathion	298-00-0	0.2
MGK-264	113-48-4	0.2
Myclobutanil	88671-89-0	0.2
Naled	300-76-5	0.5
Oxamyl	23135-22-0	1
Paclobutrazol	76738-62-0	0.4
Permethrins	52645-53-1	0.2
Phosmet	732-11-6	0.2
Piperonyl_butoxide	51-03-6	2
Prallethrin	23031-36-9	0.2
Propiconazole	60207-90-1	0.4
Propoxur	114-26-1	0.2
Pyrethrins	8003-34-7	1
Pyridaben	96489-71-3	0.2
Spinosad	168316-95-8	0.2
Spiromesifen	283594-90-1	0.2
Spirotetramat	203313-25-1	0.2
Spiroxamine	118134-30-8	0.4
Tebuconazole	80443-41-0	0.4
Thiacloprid	111988-49-9	0.2
Thiamethoxam	153719-23-4	0.2
Trifloxystrobin	141517-21-7	0.2

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

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

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

R68-37-8. Residual Solvent Standards.

1) A sample and related batch of cannabinoid product fails quality assurance testing for residual solvents if the results exceed the limits provided in Table 3 unless the solvent is:

a) a component of the product formulation;

b) listed as an ingredient; and

c) generally considered to be safe for the intended form of use.

TABLE 3 List of Solvents and Action Levels		
Solvent	Chemical Abstract Service	Action level
	(CAS)Registry number	Ppm
1,2 Dimethoxyethane	110-71-4	100
1,4 Dioxane	123-9	380
1-Butanol	71-36-3	5,000
1-Pentanol	71-41-0	5,000
1-Propanol	71-23-8	5,000
2-Butanol	78-92-2	5,000
2-Butanone	78-93-3	5,000
2-Ethoxyethanol	110-80-5	160
2-methylbutane	78-78-4	5,000
2-Propanol (IPA)	67-63-0	5,000
Acetone	67-64-1	5,000
Acetonitrile	75-05-8	410
Benzene	71-43-2	2
Butane	106-97-8	5,000
Cumene	98-82-8	70
Cyclohexane	110-82-7	3,880
Dichloromethane	75-09-2	600
2,2-dimethylbutane	75-83-2	290
2,3-dimethylbutane	79-29-8	290
1,2-dimethylbenzene	95-47-6	See Xylenes
1,3-dimethylbenzene	108-38-3	See Xylenes

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

~~2) Xylenes is a combination of the following:~~
~~a) 1,2-dimethylbenzene;~~
~~b) 1,3-dimethylbenzene;~~
~~c) 1,4-dimethylbenzene; and~~
~~d) ethyl benzene.~~

~~R68-37-9. Heavy Metal Standards.~~

~~A sample and related batch of cannabinoid product fails quality assurance testing for heavy metals if the results exceed the limits provided in Table 4.~~

~~TABLE 4 Heavy Metals~~	
~~Metals~~	~~Natural Health Products Acceptable~~
	~~limits in parts per million~~
~~Arsenic~~	~~<2~~
~~Cadmium~~	~~<.82~~
~~Lead~~	~~<1.2~~
~~Mercury~~	~~<.4~~

~~R68-37-10. Mycotoxin Standards.~~

~~A sample and related batch of cannabinoid product fails quality assurance testing for mycotoxin if the results exceed the limits provided in Table 5.~~

~~TABLE 5 Mycotoxin~~	
~~Test~~	~~Specification~~
~~The Total of~~	
~~Aflatoxin B1,~~	
~~Aflatoxin B2,~~	
~~Aflatoxin G1, and~~	
~~Aflatoxin G2~~	~~<20 ppb of substance~~
~~Ochratoxin A.~~	~~<20 ppb of substance~~

~~R68-37-11. Prohibited Additives.~~

~~Vitamin E Acetate shall not be permitted to be present in any inhalable cannabinoid product.~~

~~KEY: industrial hemp, cannabinoid, testing~~
~~Date of Last Change: April 21, 2023~~
~~Authorizing, and Implemented or Interpreted Law: 4-41-204(2)~~|

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	**R68-38**	**Filing ID: 56349**

Agency Information

1. Department:	Agriculture and Food
Agency:	Plant Industry
Building:	TSOB South Bldg, Floor 2
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO Box 146500
City, state and zip:	Salt Lake City, UT 84114-6500
Contact persons:	

Name:	**Phone:**	**Email:**
Amber Brown	385-245-5222	ambermbrown@utah.gov
Brandon Forsyth	801-710-9945	bforsyth@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov

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

General Information

2. Rule or section catchline:

R68-38. Cannabis Licensing Process

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

This rule is being repealed so it can be simultaneously reenacted under a new title specific to medical cannabis and industrial hemp, Title R66.

4. Summary of the new rule or change:

This rule is repealed in its entirety so it can be reenacted under a new title specific to medical cannabis and industrial hemp.

The substantive content will remain the same under new Rule R66-9.

(EDITOR'S NOTE: The proposed new Rule R66-9 is under ID No. 56350 in this issue, April 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 proposed repeal does not have a fiscal impact to the state because the rule text is not changing between the repeal and the new rule.

It is reenacted as new Rule R66-9.

B) Local governments:

Local governments will not be impacted because they do not participate in the medical cannabis program.

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

This proposed repeal does not have a fiscal impact to small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed repeal does not have a fiscal impact to non-small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed repeal does not have a fiscal impact to other persons because the rule text is not changing between the repeal and the new rule.

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

Compliance costs are not impacted because the substance of the rule is not changing 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

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

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

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

Citation Information

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

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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024
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 W. Buttars, Commissioner	**Date:**	03/07/2024

R68. Agriculture and Food, Plant Industry.

[~~R68-38. Cannabis Licensing Process.~~

~~R68-38-1. Authority and Purpose.~~

~~Pursuant to Subsection 4-41a-201(2)(a)(ii), this rule establishes the process for issuing a cannabis production establishment license.~~

~~R68-38-2. Definitions.~~

~~(1) "Cannabis cultivation facility" means a person that:~~

~~(a) possesses cannabis;~~

~~(b) grows or intends to grow cannabis; and~~

~~(c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis processing facility, or a medical cannabis research licensee.~~

~~(2) "Cannabis processing facility" means a person that:~~

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

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

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

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

~~(3) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.~~

~~(4) "Cannabis Production Establishment Licensing Advisory Board" or "Board" means the board established under Section 4-41a-201.1.~~

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

~~(6) "Independent cannabis testing laboratory" means a person that:~~

~~(a) conducts a chemical or other analysis of cannabis or cannabis product; or~~

~~(b) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.~~

~~R68-38-3. Cannabis Production Establishment Licensing.~~

~~(1) The Department will solicit applications for cannabis cultivation facility licenses if the conditions in Subsection 4-41a-205(2)(a) or (b) are met.~~

~~(2) A licensed cannabis cultivation facility may not be awarded a second cannabis cultivation facility license.~~

~~(3) Pursuant to Section 4-41a-201, the Board will not accept a license application unless it is complete. An incomplete application will be returned to the applicant.~~

~~(4) If there are more qualified applicants than available licenses, the department will evaluate the applicants pursuant to Subsection 4-41a-205(3).~~

~~(5) The following conditions shall be met before the Board will consider a license application:~~

~~(a) a complete application including documents and supplemental materials on the department's application checklist has been submitted;~~

~~(b) a department official has inspected the premises; and~~

~~(c) a department official has conducted an inspection as described in Section R68-38-4.~~

~~(6) The department shall forward to the Board the information and recommendation to aid in the license determination.~~

~~(7) The Board will follow the process outlined in Subsection 4-41a-201.1(6) in considering the application.~~

~~R68-38-4. Department Review.~~

~~(1) The department's inspection shall:~~

~~(a) verify required documents and supplemental materials have been submitted with the application;~~

~~(b) confirm the information in the application is correct;~~

~~(c) conduct the criminal background check required in Section 4-41a-202; and~~

~~(d) confirm that operating and business plans comply with state laws and administrative rules.~~

~~(2) The department may require additional information from an applicant.~~

~~(3) The department shall submit the cannabis processing facility or independent cannabis testing laboratory application to the Board with information within 30 days of receiving a completed cannabis processing facility or independent cannabis testing laboratory application.~~

~~(4) Consistent with Subsection R68-38-3(1), the department shall submit a cannabis cultivation facility application to the Board when the department finds a need based on market needs and available licenses.~~

~~R68-38-5. Board Review-Licenses with Limited Availability.~~

~~(1) If the Department solicits applications for a limited number of cannabis production establishment licenses, complete applications shall be scored by the Board after the requirements of Subsection R68-38-3(5) are met.~~

~~(2) Licenses shall be issued by the Board according to those applicants with the highest score depending on how many licenses are available.~~

~~(3) Board review in these circumstances shall be a blind process and with each name removed from each document that is provided to the Board for consideration.~~

~~(4) The Board may consider the following factors in determining whether to grant cannabis production establishment licenses:~~

~~(a) the applicant's experience in the medical cannabis industry;~~

~~(b) the applicant's ability to be compliant within their operating plan;~~

~~(c) the applicants positive community involvement, if applicable;~~

~~(d) the applicant's anticipated pricing structure;~~

~~(e) the timeline under which each phase of the applicant's business will be operational; and~~

~~(f) other factors determined by the Department or the Board.~~

~~(5) Board meetings may only be closed if the Board is discussing security interests. All votes shall be taken in an open meeting.~~

~~(6) If an applicant's initial score is changed based on Board discussion, the reason for the change shall be documented.~~

~~R68-38-6. Board Review-License Renewals.~~

~~(1) The following conditions shall be met before the Board will approve a renewal license application for a cannabis production establishment:~~

~~(a) a complete application including documents and supplemental materials on the department's application checklist has been submitted;~~

~~(b) the department has confirmed that the cannabis production establishment has been sufficiently compliant with state laws and administrative rules during the term of their license, pursuant to Chapter 4-41a Part 8; and~~

~~(c) for cannabis cultivation facilities, the department has confirmed that production has met or exceeded the amounts that were included in the previous year's operating plan.~~

~~(2) In approving a renewal license application for a cannabis production establishment, the Board may consider:~~

~~(a) information from the department regarding any issues that have arisen during the license term related to product quality; and~~

~~(b) any verified customer complaints.~~

~~R68-38-7. Public Hearing.~~

~~(1) The Board shall make licensing determination during a public hearing where the application was considered.~~

~~(2) The Board shall allow prospective applicants to make a presentation at the public hearing in which their application is considered.~~

~~(3) The Board shall notify the prospective applicant a minimum of ten business days in advance of the public hearing where their application is being considered.~~

~~(4) The Board may limit the time available for presentations by the applicants.~~

~~R68-38-8. Cannabis Production Establishment Licensing Advisory Board Electronic Meetings.~~

~~(1) The following provisions govern any meeting of the Board.~~

~~(a) Notice of the meeting shall specify the anchor location where the members of the Board not participating electronically or by telephone will be meeting and where interested persons and the public may attend, monitor, and participate in the open portions of the meeting.~~

~~(b) Notice of the meeting and the agenda shall be posted at the anchor location. Written or electronic notice shall also be posted on the Public Notice Website. These notices shall be provided at least 24 hours before the meetings.~~

~~(c) Notice of the possibility of an electronic meeting shall be given to the Board members at least 24 hours before the meeting. The notice shall describe how a member may participate in the meeting electronically or by telephone.~~

~~(d) When notice is given of the possibility of a member appearing electronically or by telephone, any member may do so and shall be counted as present for purposes of a quorum and may fully participate and vote on any matter coming before the Board.~~

~~(e) At the commencement of the meeting, or at such time as any member initially appears electronically or by telephone, the chair shall identify for the record all those who are appearing by telephone or electronically.~~

~~(f) Votes by members of the Board who are not at the physical location of the meeting shall be confirmed by the chair.~~

~~(g) The anchor location, unless otherwise designated in the notice, shall be at the offices of the Department of Agriculture and Food.~~

~~(i) The anchor location is the physical location from which the electronic meeting originates or from which the participants are connected.~~

~~(ii) The anchor location shall have space and facilities so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.~~

~~KEY: cannabis, cannabis production, licensing, Cannabis Production Establishment Licensing Advisory Board~~
~~Date of Last Change: April 21, 2023~~
~~Authorizing, and Implemented or Interpreted Law: 4-2-103; 4-41a-201(2)(a)(ii)~~]

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	**R68-39**	**Filing ID: 56357**

Agency Information

1. Department:	Agriculture and Food
Agency:	Plant Industry
Room number:	TSOB South Bldg, Floor 2
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO Box 146500
City, state and zip:	Salt Lake City, UT 84114-6500

Contact persons:		
Name:	**Phone:**	**Email:**
Amber Brown	385-245-5222	ambermbrown@utah.gov
Brandon Forsyth	801-710-9945	bforsyth@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov

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

General Information

2. Rule or section catchline:

R68-39. Industrial Hemp Producer Registration

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

This rule is being repealed so it can be simultaneously reenacted under a new title specific to medical cannabis and industrial hemp, Title R66.

4. Summary of the new rule or change:

This rule is repealed in its entirety so it can be reenacted under a new title specific to medical cannabis and industrial hemp.

The substantive content will remain the same under new Rule R66-33.

(EDITOR'S NOTE: The proposed new Rule R66-33 is under ID No. 56358 in this issue, April 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 proposed repeal does not have a fiscal impact to the state because the rule text is not changing between the repeal and the new rule.

It is reenacted as new Rule R66-33.

B) Local governments:

Local governments will not be impacted because they do not participate in the medical cannabis program.

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

This proposed repeal does not have a fiscal impact to small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed repeal does not have a fiscal impact to non-small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed repeal does not have a fiscal impact to other persons because the rule text is not changing between the repeal and the new rule.

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

Compliance costs are not impacted because the substance of the rule is not changing 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

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

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

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

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024
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 W. Buttars, Commissioner	**Date:**	03/07/2024

R68. Agriculture and Food, Plant Industry.

[~~R68-39. Industrial Hemp Producer Registration.~~

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

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

~~R68-39-2. Definitions.~~

~~For the purposes of this rule:~~

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

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

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

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

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

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

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

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

~~(6) "Non-compliant material" means:~~

~~(a) a hemp plant or plant material that does not comply with this rule, including a cannabis plant with a concentration of 0.3% tetrahydrocannabinol or greater by dry weight; and~~

~~(b) a cannabinoid product, chemical, or compound with a concentration that exceeds the cannabinoid product THC level.~~

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

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

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

~~R68-39-3. Industrial Hemp Producer Registration.~~

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

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

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

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

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

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

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

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

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

~~R68-39-4. Inspection and Testing.~~

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

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

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

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

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

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

~~R68-39-5. Industrial Hemp Producer Registrant Responsibilities.~~

~~A registrant shall:~~

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

~~(2) Ensure that an industrial hemp product comes from a licensed source.~~
~~(3) Maintain records of receipt and distribution.~~
~~(4) Ensure that each production location is registered.~~

~~R68-39-6. Industrial Hemp Producer Registration Restrictions.~~
~~(1) A registrant may not process or store industrial hemp material in any structure that is used for residential purposes.~~
~~(2) A registrant may not process or handle industrial hemp or industrial hemp material from any person who is not licensed by the department or the United States Department of Agriculture (USDA) or from a person outside the state who is not authorized by the laws of that state.~~

~~R68-39-7. Violation.~~
~~(1) It is a violation to manufacture or produce industrial hemp products without a registration.~~
~~(2) It is a violation to handle or store cannabis above 0.3% THC.~~
~~(3) It is a violation to distribute or market an industrial hemp product containing a cannabinoid without the required license.~~
~~(4) It is a violation to refuse inspection of an industrial hemp producer manufacturing establishment or a storage area.~~
~~(5) It is a violation to not keep records in accordance with Section R68-39-5.~~
~~(6) It is a violation for an industrial hemp producer registrant to sell viable industrial hemp seed.~~

~~KEY: industrial hemp, hemp fiber, hemp grain, production, registration~~
~~Date of Last Change: August 1, 2023~~
~~Authorizing, and Implemented or Interpreted Law: 4-2-103(1)(i); 4-41-103.3~~]

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number:	**R68-40**	**Filing ID: 56341**

Agency Information

1. Department:	Agriculture and Food
Agency:	Plant Industry
Building:	TSOB South Bldg, Floor 2
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84114
Mailing address:	PO Box 146500
City, state and zip:	Salt Lake City, UT 84114-6500

Contact persons:		
Name:	**Phone:**	**Email:**
Amber Brown	385-245-5222	ambermbrown@utah.gov
Brandon Forsyth	801-710-9945	bforsyth@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov

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

General Information

2. Rule or section catchline:

R68-40. Medical Cannabis Pharmacy

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

This rule is being repealed so it can be simultaneously reenacted under a new title specific to medical cannabis and industrial hemp, Title R66.

4. Summary of the new rule or change:

This rule is repealed in its entirety so it can be reenacted under a new title specific to medical cannabis and industrial hemp.

The substantive content will remain the same under new Rule R66-5.

(EDITOR'S NOTE: The proposed new Rule R66-5 is under ID No. 56342 in this issue, April 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 proposed repeal does not have a fiscal impact to the state because the rule text is not changing between the repeal and the new rule.

It is reenacted as new Rule R66-5.

B) Local governments:

Local governments will not be impacted because they do not participate in the medical cannabis program.

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

This proposed repeal does not have a fiscal impact to small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed repeal does not have a fiscal impact to non-small businesses because the rule text is not changing between the repeal and the new rule.

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

This proposed repeal does not have a fiscal impact to other persons because the rule text is not changing between the repeal and the new rule.

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

Compliance costs are not impacted because the substance of the rule is not changing 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

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

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

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

Citation Information

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

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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024

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. W Buttars, Commissioner	**Date:**	03/07/2024

R68. Agriculture and Food, Plant Industry.

~~[R68-40. Medical Cannabis Pharmacy.~~

~~R68-40-1. Authority and Purpose.~~

~~(1) Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies and Subsection 4-2-103(1)(i) authorize this rule.~~

~~(2) This rule establishes operating and licensing standards and requirements to be followed by medical cannabis pharmacies and their employees.~~

~~R68-40-2. Definitions.~~

~~(1) "Cannabis waste" means cannabis product that is damaged, deteriorated, mislabeled, expired, returned, subject to a recall, or enclosed within a container or package that has been opened or breached.~~

~~(2) "Card" means any type of medical cannabis card or registration card, whichever applies, authorized under Title 26B, Chapter 4, Part 2 Cannabinoid Research and Medical Cannabis.~~

~~(3) "Cardholder area" means the area of a medical cannabis pharmacy where a product is purchased that is restricted to a medical cannabis cardholder, a medical cannabis pharmacy employee, or another individual authorized by the medical cannabis pharmacy to enter the cardholder area.~~

(4) "Courier agent" means a medical cannabis courier agent.

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

(6) "DHHS" means The Utah Department of Health and Human Services.

(7) "Direct supervision" means that a PMP is physically present at a medical cannabis pharmacy facility and immediately available for in-person face-to-face communication with the pharmacy agent.

(8) "Educational event" means an organized event:

(a) at which a medical cannabis pharmacy distributes, orally presents, or displays educational material; and

(b) that may be held either virtually or in-person.

(9)(a) "Educational material" means material or content used, displayed, sold, or distributed for an educational purpose by a medical cannabis pharmacy in-person or online in a business or professional capacity.

(b) Educational material includes:

(i) live or recorded content of an educational event; or

(ii) any printed educational material such as a placard, poster, fact sheet, book, pamphlet, flyer, or business card.

(10) "Limited access area" means an area of a medical cannabis pharmacy where medical cannabis and medical cannabis devices shall be stored that is:

(a) a lockable cabinet in a medical cannabis pharmacy facility to which only a pharmacy agent or PMP has access; or

(b) an indoor area or room of a medical cannabis pharmacy facility that is separated from the cardholder and public areas of the medical cannabis pharmacy by a physical barrier with suitable locks and an electronic barrier to detect entry doors.

(11) "Pharmacy agent" means a medical cannabis pharmacy agent.

(12) "PIC" means a pharmacist-in-charge who oversees the operation and generally supervises a medical cannabis pharmacy.

(13) "PMP" means a medical cannabis pharmacy medical provider

(14) "Public waiting area" means an area of the medical cannabis pharmacy where the public waits for cardholders and cardholders wait for authorization to enter the cardholder area.

(15) "Recreational disposition" means:

(a) slang words or phrasing associated with the recreational use of cannabis;

(b) an image of a celebrity or other person whose target audience is children or minors;

(c) content that encourages, promotes, or otherwise creates an impression that the recreational use of cannabis is legal or acceptable, or that the recreational use of cannabis has potential health or therapeutic benefits;

(d) content that promotes excessive consumption;

(e) content that is obscene or indecent; and

(f) content that a reasonable person knows or should know appeals to children.

(16) "Safeguard" means to maintain the confidentiality of the information accessed and not use, release, publish, disclose, or otherwise make available to any other person not authorized to access the information for any purpose other than those specifically authorized or permitted by applicable law.

(17) "State electronic verification system" means the same as the term is defined in Section 26B-4-202 and Subsection 4-41a-102(44).

(18) "Targeted marketing" means the same as the term is defined in Subsection 26B-4-201(55).

(19) "Utah resident" means an individual who has established a domicile in Utah.

R68-40-3. General Operating Standards.

(1) In addition to general operating standards established in Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, medical cannabis pharmacies shall comply with the operating standards established in this rule. Medical cannabis pharmacies shall:

(a) be well lit, well ventilated, clean, and sanitary;

(b) maintain a current list of employees working at the medical cannabis pharmacy that:

(i) includes employee name, department registration license classification and license number, registration expiration date, and work schedule; and

(ii) be readily retrievable for inspection by the department and may be maintained in paper or electronic form;

(c) have a counseling area to allow for confidential patient counseling; and

(d) have current and retrievable editions of the following reference publications, in print or electronic format, readily available and retrievable to medical cannabis pharmacy personnel:

(i) Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies;

(ii) Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; and

(iii) applicable administrative rules.

(2) A medical cannabis pharmacy may not distribute medical cannabis products or medical cannabis devices to a medical cannabis cardholder unless an employee who is a PMP is physically present and immediately available in the medical cannabis pharmacy.

(3) A medical cannabis pharmacy location shall be open for a cardholder to buy a medical cannabis product and medical devices for a minimum of 35 hours a week, except as authorized by the department.

(4) A medical cannabis pharmacy that closes during normal hours of operation shall implement procedures to notify cardholders when the medical cannabis pharmacy will resume normal hours of operation. Procedures may include telephone system messages and conspicuously posted signs.

(5)(a) Deliveries from a cannabis processing facility or another medical cannabis pharmacy shall be carried out under the direct supervision of a PMP or pharmacy agent.

(b) A PMP or pharmacy agent shall be present to accept the delivery.

(c) Upon delivery, the medical cannabis product or medical cannabis devices shall immediately be placed in a limited access area of the medical cannabis pharmacy.

(6) A medical cannabis pharmacy shall protect confidential cardholder data and information stored in the Electronic Verification System to ensure that access to and use of the data and information is limited to those individuals and purposes authorized under Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis and this rule.

(7) A medical cannabis pharmacy may not dispense expired, damaged, deteriorated, misbranded, adulterated, or opened medical cannabis products or medical cannabis devices.

(8)(a) A medical cannabis pharmacy license may not be assigned or transferred but a licensee may make changes to its ownership or company structure.

(b) Any changes to a pharmacy's ownership or company structure shall be reported to the department no later than ten calendar days before the change is to take place.

(c) When making a change to its ownership, a licensee may not:

(i) make an ownership change by an interest of 2% or more without notification of the department at least 10 days before the date of the change; and

(ii) make an ownership change by an interest of 50% or more without applying to the department and receiving department approval and payment of the fee authorized under Subsection 4-41a-1001(3)(c) that the department sets in accordance with Section 63J-1-504.

(9) When applying to the department for approval of an ownership change of more than 50%, the medical cannabis pharmacy shall submit to the department:

(a) a complete application form;

(b) payment of an application fee that covers the cost of the application review;

(c) a description of how the medical cannabis pharmacy maintains its compliance with the minimum standards for licensure and operation of the medical cannabis pharmacy; and

(d) the results of any formal investigation or adverse action taken against the new owners or individuals with financial or management control who make up the new owners, during the past seven years by any licensing jurisdiction, government agency, law enforcement agency, or court.

(10) A medical cannabis pharmacy shall provide a copy of a certificate of analysis for a medical cannabis product to a medical cannabis cardholder or a recommending medical provider if:

(a) it is requested in writing; and

(b) the requestor signs a non-disclosure agreement upon request by the medical cannabis pharmacy.

(11) A medical cannabis pharmacy may be in the same building as a medical clinic that offers medical cannabis evaluations under the following conditions:

(a) the building owner may not be the medical cannabis pharmacy or an owner, director, board member, employee, or agent of the medical cannabis pharmacy; and

(b) the two businesses cannot share an outdoor entrance unless the entrance leads to a common area shared by multiple tenants of the building where the two businesses have separate facility entrances to facility reception areas separated by walls and locked doors.

R68-40-4. Operating Plan.

(1) A medical cannabis pharmacy license application shall include an operating plan that at a minimum, consists of the following:

(a) the information requested in the application;

(b) the information listed in Section 4-41a-1004; and

(c) a plan to comply with applicable operating standards, statutes, and administrative rules, including:

(i) Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies; and

(ii) applicable administrative rules.

(2)(a) The department may require the applicant for a medical cannabis pharmacy license to make a change to its operating plan before issuing a pharmacy license.

(b) The applicant shall submit a copy of its updated operating plan, with the required change and receive department approval of the plan before the department awards the license.

(3)(a) Once the department issues a license, any change to a medical cannabis pharmacy's operating plan is subject to the approval of the department.

(b) A medical cannabis pharmacy shall submit a notice, in a manner determined by the department at least 14 days before the date that it plans to implement any change to its operating plan.

R68-40-5. Pharmacist-In-Charge.

(1)(a) PICs shall have the responsibility to oversee the medical cannabis pharmacy's operation.

(b) The PIC shall generally supervise the medical cannabis pharmacy, though the PIC is not required to be on-site during business hours.

(2)(a) Each medical cannabis pharmacy shall have a unique email address to be used for official notices, self audits, or alerts initiated by the department.

(b) The medical cannabis pharmacy shall identify the email address in their initial license application and inform the department within seven calendar days if the email address is changed.

(c) The email address may not be used to send any patient information.

(3) The duties of the PIC shall include:

(a) ensure that PMPs and pharmacy agents appropriately interpret and distribute a recommendation from a recommending medical provider in a suitable container appropriately labeled for administration or use by a patient;

(b) ensure that medical cannabis products and medical cannabis devices are distributed safely and accurately with correct dosing guidelines and directions of use as recommended by a recommending medical provider;

(c) ensure that PMPs and pharmacy agents communicate to a cardholder, at their request, information concerning any medical cannabis product or medical cannabis devices distributed to the cardholder;

(d) ensure that medical cannabis pharmacy personnel receive necessary education and training;

(e) establish policies for procurement of medical cannabis products, medical cannabis devices, and educational material sold at the facility;

(f) distribute and dispose of medical cannabis products and medical cannabis devices from a medical cannabis pharmacy;

(g) ensure appropriate storage of medical cannabis products and medical cannabis devices;

(h) maintain a complete and accurate record of products and transactions of the medical cannabis pharmacy necessary to maintain accurate control and accountability for materials required by applicable state laws;

(i) establish effective control against theft or diversion of medical cannabis products or medical cannabis devices, and record of the product;

(j) ensure legal operation of the medical cannabis pharmacy, including inspections, and other requirements, of state law;

(k) implement an ongoing quality assurance program that monitors the performance of the personnel at the medical cannabis pharmacy;

(l) ensure that the point-of-sale is in working order;

(m) ensure that relevant information is submitted to the state's Inventory Control System and Electronic Verification System in a timely manner;

(n) ensure that medical cannabis pharmacy personnel have appropriate licensure and registration;

(o) ensure that no medical cannabis pharmacy operates with a ratio of PMPs to pharmacy agents that results in, or reasonably would be expected to result in, a reasonable risk of harm to public health, safety, and welfare; and

(p) ensure that the PIC assigned to the medical cannabis pharmacy is recorded with the department, and the department is notified of a PIC change within 14 days of the change or within 24 hours of an immediate change in a PIC's employment status in case of sudden resignation, termination, or emergency leave.

(4) A PMP cannot be designated as PIC for more than two medical cannabis pharmacies at one time.

R68-40-6. Supervision.

(1) A medical cannabis pharmacy licensee shall ensure that the pharmacy is always under the actual charge of the medical cannabis pharmacy's PIC as well as under the direct supervision of at least one supervising PMP, who is physically present when a medical cannabis pharmacy is open to the public.

(2) A medical cannabis pharmacy PIC is not required to be in the medical cannabis pharmacy at all times but shall be available for contact within a reasonable period with the supervising PMP.

R68-40-7. Security Standards.

(1) A medical cannabis pharmacy shall comply with security standards established in Section 4-41a-1101 and this rule.

(2) A medical cannabis pharmacy shall have security equipment sufficient to deter and prevent unauthorized entrance into a limited access area of the medical cannabis pharmacy that includes equipment required in this section.

(3) A medical cannabis pharmacy shall have a system to detect unauthorized intrusion, which may include a signal system interconnected with a radio frequency method, such as cellular or private radio signals, or another mechanical or electronic device.

(4) A medical cannabis pharmacy shall be equipped with a secure lock on any entrance to the medical cannabis pharmacy.

(5) A medical cannabis pharmacy shall have electronic monitoring including:

(a) at least one 19-inch or greater call-up monitor;

(b) a printer, capable of immediately producing a clear still photo from any video camera image;

(c) a video camera with a recording resolution of at least 640 x 470, or the equivalent, that provides coverage of entrances to and exits from limited access areas, entrances to and exits from the building, and is capable of identifying any activity occurring in or adjacent to the building;

(d) a video camera that records continuously, 24 hours a day, 7 days a week or be motion activated;

(e) a video camera at each point of sale and product destruction or disposal location that will allow for the identification of a medical cannabis cardholder, visitor, or pharmacy employee;

(f) a method for storing video recordings from the video camera for at least 45 calendar days:

(i) a surveillance system storage device used for locally stored footage shall be secured in the facility in a lock box, cabinet, closet, or secured in another manner, to protect from employee tampering or criminal theft; and

(ii) access to footage stored on a remote server shall be restricted to protect from employee tampering;

(g) a failure notification system that provides an audible and visual notification of failure in the electronic monitoring system;

(h) sufficient battery backup for a video camera and recording equipment to support at least five minutes of recording in the event of a power outage;

(i) a date and time stamp embedded on video camera recordings that is set correctly; and

(j) a panic alarm in the interior of the facility that is a silent security alarm system signal generated by the manual activation of a device intended to signal a robbery in progress.

(6) Security measures implemented by a medical cannabis pharmacy to deter and prevent unauthorized entrance in areas containing products or theft of products and to ensure the safety of employees and cardholders, shall include measures to:

(a) store medical cannabis products and medical cannabis devices in a secure locked limited access area in a manner as to prevent diversion, theft, and loss;

(b) keep safes, vaults, and any other equipment or areas used for storage, including before disposal of the product, securely locked and protected during times other than the time required to remove or replace medical cannabis a product or medical cannabis devices;

(c) keep locks and security equipment in good working order and test that equipment is functioning properly at least two times per calendar year;

(d) prohibit keys from being left in locks, stored, or placed in a location accessible to any person other than specifically authorized personnel;

(e) prohibit accessibility of security measures such as combination numbers, passwords, or electronic, or biometric security systems, to any person other than specifically authorized personnel;

(f) ensure that the outside perimeter of the building is sufficiently lit to facilitate surveillance;

(g) ensure that medical cannabis products and medical cannabis devices are kept out of plain sight and are not visible from a public place;

(h) secure each product following any instance of diversion, theft, or loss of product, and conduct an assessment to determine whether additional safeguards are necessary;

(i) ensure safe cash handling and cash transportation to prevent theft, loss, and associated risk to the safety of employees, customers, and the general public at any medical cannabis pharmacy where a cash transaction is conducted; and

(j) prevent an individual from remaining on the premise of the medical cannabis pharmacy if they are not engaging in activity permitted by Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis or Title 4, Chapter 41a, Medical Cannabis Production Establishments and Pharmacies.

(7) A medical cannabis pharmacy may display, in a securely locked case, a sample of each product offered:

(a) the display case shall be transparent; and

(b) an authorized PMP or pharmacy agent may remove an example of medical cannabis or a medical cannabis device from the case and provide it to a cardholder for inspection, provided:

(i) the patient does not consume or otherwise use the sample;

(ii) the processor label from the original product container or an image showing the processor label is affixed to the sample's container with the unique identifying number that links the medical cannabis product to the ICS; and

(iii) the medical cannabis product is destroyed in compliance with applicable laws and the pharmacy's standard operating procedures.

(8) Inside the medical cannabis pharmacy, medical cannabis product and medical cannabis devices, shall be stored in a limited access area during non-business hours.

(9)(a) While inside the medical cannabis pharmacy, each employee shall wear an identification tag or similar form of identification, to clearly identify them to the public.

(b) The tag shall list the employees position at the medical cannabis pharmacy as a PMP or pharmacy agent.

(10) A medical cannabis pharmacy shall include the following areas:

(a) public waiting area;

(b) cardholder only area; and

(c) limited access area.

(11) A medical cannabis pharmacy shall allow only a medical cannabis cardholder, PMP, pharmacy agent, authorized vendor, contactor, or visitor, to have access to the cardholder area of the medical cannabis pharmacy.

(12)(a) An outside vendor, contractor, or a visitor shall obtain a visitor identification badge before entering the cardholder only, or limited access area of a medical cannabis pharmacy.

(b) The badge shall be worn at all times when on the premise of the medical cannabis pharmacy.

(c) Each visitor shall be escorted at all times by an employee authorized to enter the medical cannabis pharmacy.

(d) Each visitor shall log in and out and that log shall be available for inspection by the department.

(e) Each visitor shall return their badge to the medical cannabis pharmacy upon exit.

(13)(a) A medical cannabis pharmacy shall keep product that is inside the medical cannabis pharmacy in a limited access area, inaccessible to any person other than a PMP, pharmacy agent, state employee, or an individual authorized by the medical cannabis pharmacy's PIC.

(b) The limited access area under Subsection (13)(a) shall:

(i) be identified by the posting of a sign that is a minimum of 12" x 12;" and

(ii) states: "Limited Access Area," in lettering no smaller than one inch in height.

(14) If a cabinet or drawer is used as a limited access area, it is not required to have a "Limited Access Area" sign on it.

(15) Only a PMP or a pharmacy agent shall have access to the medical cannabis pharmacy when the medical cannabis pharmacy is closed to the public.

(16)(a) The medical cannabis pharmacy, or parent company, shall maintain a record of not less than five years of the initials or identification codes that identify each PMP or pharmacy agent by name.

(b) The initial or identification code under Subsection (16)(a):

(i) shall be unique, to ensure that each PMP or pharmacy agent can be identified; and

(ii) may not be used for two or more PMPs or pharmacy agents.

R68-40-8. Inventory.

(1) A medical cannabis pharmacy shall inventory and store medical cannabis products and medical cannabis devices:

(a) in a manner to permit clear identification, separation, and easy retrieval of a product; and

(b) in an environment necessary to maintain the integrity of product inventory.

(2) A medical cannabis pharmacy shall use the ICS to establish a record of each transaction, sale, return, and disposal.

(3) A medical cannabis pharmacy shall input information regarding the purchase of medical cannabis products or medical cannabis devices into the ICS immediately following each transaction.

(4) A medical cannabis pharmacy shall establish and document daily and weekly inventory controls of medical cannabis product and medical cannabis devices to help the pharmacy detect any diversion, theft, or loss of product in a timely manner.

(5)(a) A PMP at each medical cannabis pharmacy shall conduct a monthly inventory that includes a reconciliation of each medical cannabis product and medical cannabis device stored at the pharmacy with the pharmacy's inventory record in the ICS.

(b) Pharmacy agents may assist a PMP with the monthly inventory.

(c) A monthly inventory shall include:

(i) the time and date of completing the inventory;

(ii) a summary of the inventory findings; and

(iii) the name and signature or initials of the PMP who conducted the inventory.

(6) If a medical cannabis pharmacy employee identifies a reduction in the number of medical cannabis products or medical cannabis devices in their inventory that is not due to a documented cause, the pharmacy shall immediately:

(a) determine where the loss occurred and take and document corrective action;

(b) inform the department of the loss by telephone; and

(c) provide written notice of the loss and the corrective action taken to the department within two business days after the discovery of the loss.

(7) If a reduction in the number of medical cannabis products or medical cannabis devices in the inventory is due to actual or suspected criminal activity, the medical cannabis pharmacy shall immediately make a written report identifying the circumstances surrounding the reduction to:

(a) the department; and

(b) to law enforcement with jurisdiction where the criminal acts occurred.

(8) If a medical cannabis pharmacy employee identifies an increase in the amount of medical cannabis products or medical cannabis devices in the inventory not due to documented causes, the medical cannabis pharmacy shall determine where the increase occurred and take and document corrective action.

(9)(a) The PIC shall conduct and complete an annual comprehensive inventory of products at a medical cannabis pharmacy within 72 hours or three working days of the pharmacy's first annual comprehensive inventory.

(b) The annual comprehensive inventory shall include:

(i) the time and date of the inventory;

(ii) a summary of the inventory findings; and

(iii) the name and signature or initials of the PIC who conducted the inventory.

(10) The medical cannabis pharmacy shall keep records of each monthly inventory and comprehensive annual inventory for five years.

(11)(a) Inventory records may be electronic or physical.

(b) If physical records are kept, the physical records shall be located at the medical cannabis pharmacy where the medical cannabis products and medical cannabis devices are located.

(c) If a medical cannabis pharmacy intends to maintain records at a location other than the medical cannabis pharmacy, they send a written request to the department that contains:

(i) the medical cannabis pharmacy name and license number; and

(ii) the name and address of the alternate location.

(b) The department shall approve or deny the request through written notification.

(c) A copy of the department's approval shall be maintained by the medical cannabis pharmacy.

(d) The alternate location shall be secured and accessible only to authorized medical cannabis pharmacy employees.

(11) Upon request, a medical cannabis pharmacy shall provide any documentation required to be maintained in this rule to the department for review.

R68-40-9. Transportation.

(1) Transport of medical cannabis from a medical cannabis pharmacy to another location may occur only when:

(a) a home delivery medical cannabis pharmacy is delivering shipments of medical cannabis or medical cannabis devices to a cardholder's home address or caregiver facility;

(b) a medical cannabis pharmacy or cannabis production establishment is transporting medical cannabis or a medical cannabis device from a medical cannabis pharmacy facility to a cannabis production establishment facility or waste disposal location to be disposed of; or

(c) a product recall is initiated and medical cannabis or a medical cannabis device must be returned from a medical cannabis pharmacy to the cannabis production establishment.

(2) Medical cannabis product and medical cannabis devices to be returned to a cannabis production establishment shall be:

(a) logged into the ICS;

(b) stored in a locked container with clear and bold lettering: "Return"; and

(c) prepared for return in compliance with any guideline and protocol of the cannabis production establishment for collecting, storing, and labeling a returned product.

(3) A PMP or pharmacy agent that accepts a shipment of medical cannabis or a medical cannabis device at a medical cannabis pharmacy facility from a cannabis production establishment shall:

(a) get a copy of the transport manifest;

(b) not delete, void, or change information on the transport manifest;

(c) ensure that the medical cannabis product and medical cannabis devices received from a cannabis production establishment are as described in the transport manifest;

(d) record on the manifest:

(i) the amount received into the ICS; and

(ii) the unique initial or identification code of the medical cannabis pharmacy employee who compares the received inventory with the transport manifest;

(e) document any difference between the quantity specified in the transport manifest and the quantity received in the ICS; and

(f) log any change to medical cannabis product or medical cannabis devices that may have occurred while in transport in the ICS.

(4) A medical cannabis pharmacy may only receive medical cannabis products in their final packaging.

R68-40-11. Cannabis Disposal and Waste.

(1) A medical cannabis pharmacy shall dispose of cannabis waste at the medical cannabis pharmacy location or a location of a cannabis production establishment licensed by the department.

(2) In addition to complying with standards for cannabis disposal and waste established in Subsection 4-41a-1101(11), a medical cannabis pharmacy shall:

(a) designate a location in the limited access area of the medical cannabis pharmacy where cannabis waste shall be securely locked and stored;

(b) designate a lockable container or containers that are clearly and boldly labeled with the words "Not for Sale or Use;"

(c) ensure the medical cannabis product is logged in the ICS at the time of disposal with appropriate information including:

(i) a description of and reason for the disposal;

(ii) date of disposal;

(iii) method of disposal; and

(iv) name and registration identification number of the agent responsible for the disposal;

(d) ensure that wastewater generated during the cannabis waste disposal process is disposed of in compliance with applicable state laws and rules; and

(e) ensure that cannabis waste disposed of is made unusable.

(3)(a) Cannabis waste generated from the cannabis plant, trim, and leaves is not considered hazardous waste unless it has been treated or contaminated with a solvent or pesticide.

(b) Cannabis waste that is not designated as hazardous shall be made unusable by grinding and incorporating the cannabis waste with other ground materials so the resulting mixture is at least 50% non-cannabis waste by volume or other methods approved by the department.

(c) Materials used to grind and incorporate with cannabis may be compostable or non-compostable.

(i) Compostable waste is cannabis waste to be disposed of as compost or in another organic waste method mixed with:

(A) food waste;

(B) yard waste; or

(C) vegetable-based grease or oils.

(ii) Non-compostable waste is cannabis waste to be disposed of in a landfill or another disposal method, such as incineration, mixed with:

(A) paper waste;

(B) cardboard waste;

(C) plastic waste; or

(D) soil.

R68-40-12. Product Recall.

(1) A recall may be initiated by a cannabis production establishment, a medical cannabis pharmacy, or the department.

(2) A medical cannabis pharmacy shall maintain a recall plan that includes, at a minimum:

(a) a designation of at least one employee who shall serve as the recall coordinator;

(b) if the recall is initiated by a medical cannabis pharmacy, a requirement that the pharmacy will immediately notify the department and the cannabis production establishment from which it obtained the cannabis product in question;

(c) a requirement that notification occur within 24 hours of the pharmacy becoming aware of a complaint about the medical cannabis product or medical cannabis device;

(d) a procedure to identify and isolate recalled product to prevent or minimize distribution to patients;

(e) a procedure to retrieve and destroy recalled product; and

(f) a communication plan to notify those affected by the recall.

(3) The medical cannabis pharmacy shall track the total amount of affected medical cannabis product and the amount of medical cannabis product returned to the medical cannabis pharmacy as part of the recall.

(4) The medical cannabis pharmacy shall coordinate the destruction of the medical cannabis product with the department and allow the department to oversee the destruction.

(5) A medical cannabis pharmacy shall notify the department before initiating a voluntary recall.

R68-40-13. Partial Filling.

A PMP or pharmacy agent who partially fills a recommendation for a medical cannabis cardholder shall specify in the ICS the following:

(1) date of partial fill;

(2) quantity supplied to the cardholder; and

(3) quantity remaining of the recommendation partially filled.

R68-40-14. Closing a Pharmacy.

(1) At least 14 days before the closing of a medical cannabis pharmacy, the PIC shall:

(a) send written notice to the department with the name, address, and department issued license number of the medical cannabis pharmacy;

(b) surrender the license issued to the medical cannabis pharmacy;

(c) provide a statement to the department attesting:

(i) a comprehensive inventory was conducted;

(ii) the manner in which the medical cannabis product and medical cannabis devices will be transferred or disposed of;

(iii) the anticipated date of closing;

(iv) the name, address, and department issued license number of the medical cannabis pharmacy or cannabis production establishment acquiring the medical cannabis and medical cannabis devices from the medical cannabis pharmacy that is closing;

(v) the date when the transfer of the medical cannabis product and medical cannabis devices will occur; and

(vi) the name and address of the medical cannabis pharmacy to which the orders, including any refill information and patient records, will be transferred; and

(c) post a closing notice in a conspicuous place at the public entrance doors to the medical cannabis pharmacy that includes the closing date.

(2) If the PIC cannot provide notification 14 days before closing because the medical cannabis pharmacy is closed suddenly due to fire, destruction, natural disaster, death, property seizure, eviction, bankruptcy, they shall notify the department no later than 24 hours after the closing.

(3) If the PIC is not available to comply with the requirements of this section, the owner or legal representative shall be responsible for compliance with this section.

(4) On the date of the closing, the PIC shall remove medical cannabis product and medical cannabis devices from the medical cannabis pharmacy by one or a combination of the following methods:

(a) transport them to a cannabis processing facility for credit or disposal; or

(b) transfer or sell them to a person who is legally entitled to have medical cannabis products and medical cannabis devices, such as another medical cannabis pharmacy in Utah.

(5) The PIC shall remove signs and notify the landlord of the property that it is unlawful to use the word "medical cannabis pharmacy," or any other words of the same or similar meaning or any graphic representation that would mislead the public that a medical cannabis pharmacy is located at the address.

R68-40-15. Abandonment of a License.

A medical cannabis pharmacy shall be considered to have abandoned their license if they fail to begin operations within one year after the day on which the department issues an intent to award a medical cannabis pharmacy license.

R68-40-16. Walk-up, Drive-Thru and Curbside Service.

(1) A medical cannabis cardholder may contact a medical cannabis pharmacy by phone or online before the time of walk-up, drive-thru, or curbside service pick-up to make an order.

(2)(a) A medical cannabis cardholder transaction may take place outside the medical cannabis pharmacy facility, but shall occur within the total property boundary of the licensed entity.

(b) Walk-up, drive-thru, and curbside service transactions shall occur at a licensed location that is owned, leased, or rented by the licensed entity and may not occur on a public sidewalk or an adjacent parking lot.

(3)(a) If a product is bought with cash, the cash must be taken into the medical cannabis pharmacy facility after each transaction.

(b) If a medical cannabis pharmacy obtains approval from the Division of Finance to accept customer payments through an electronic payment provider, a medical cannabis cardholder using walk-up, drive-thru, and curbside pick-up service may make payments using the approved electronic payment provider.

(4)(a) Medical cannabis products and medical cannabis devices, including those that are awaiting pick-up, shall be securely stored in the medical cannabis pharmacy facility until a medical cannabis cardholder arrives for pick-up.

(b) Under no circumstances may a medical cannabis product or medical cannabis device be stored outside of a medical cannabis pharmacy facility before a customer arrives to pick-up the product.

(5)(a) A medical cannabis pharmacy's video surveillance shall enable the video recording of each medical cannabis cardholder transaction.

(b) Subsection (a) includes:

(i) video surveillance of a cardholder, cardholder vehicle, medical cannabis pharmacy employee verifying the cardholder's valid form of government issued identification; and

(ii) the transfer and dispensing of an item bought by a cardholder.

(c) Video cameras shall record points of entry and exit of a parking lot and shall be angled to ensure the capture of clear and certain identification of a cardholder and their vehicle's license plate.

(6)(a) The individual receiving the delivery of a product from the medical cannabis pharmacy employee via walk-up, drive-thru or curbside pick-up shall be a cardholder.

(b) When drive-thru service is used, the medical cannabis cardholder verifying their ID to the medical cannabis pharmacy shall be visible to cameras and to the medical cannabis pharmacy employee who is helping them.

(7) Children under age 18 may be present in a vehicle that arrives for drive-thru or curbside pick-up service.

(8)(a) When a PMP's consultation with a medical cannabis cardholder is required, the consultation may be provided in-person, over the phone, or with another real-time communications device.

(b) It is the responsibility of the medical cannabis pharmacy to ensure the privacy of these consultations regardless of where or how the consultations happen.

(9) When a medical cannabis pharmacy employee transports a container of medical cannabis product to a medical cannabis cardholder via walk-up, drive-thru, or curbside service, the container shall be contained within a box or an opaque bag.

(10) When drive-thru service is used, a medical cannabis pharmacy may use a secure drive-thru drawer or pneumatic tube to transport medical cannabis product, medical cannabis device, educational materials, valid photo identification, cash, and other documents between a medical cannabis pharmacy employee and a medical cannabis cardholder.

R68-40-17. Targeted Marketing.

(1) A medical cannabis pharmacy may engage in targeted marketing pursuant to Subsection 4-41a-1104(2)(f).

(2) Targeted marketing that makes a statement relating to side effects, consequences, contraindications, and effectiveness shall present a true statement of the information.

(3) Targeted marketing is false, lacking fair balance, or otherwise misleading if it:

(a) contains a representation or suggestion that a cannabis strain, brand, or product is better, more effective, useful in a broader range of conditions or patients, or safer than other drugs or treatments including other cannabis strains or products, unless the claim has been demonstrated by substantial evidence or substantial clinical data;

(b) contains favorable information or opinions about a medical cannabis product previously regarded as valid but which have been made invalid by contrary and more credible recent information;

(c) uses a quote or paraphrase out of context or without citing conflicting information from the same source, to convey a false or misleading idea;

(d) uses a study on individuals without a qualifying medical condition without disclosing that the subjects were not suffering from a qualifying medical condition;

(e) uses data favorable to a medical cannabis product derived from patients treated with a different product or dosages different from those legal in Utah; or

(f) contains favorable information or conclusions from a study that is inadequate in design, scope, or conduct to furnish significant support for the information or conclusions.

(4) Targeted marketing may not include:

(a) unsubstantiated health claims or other claims that are not supported by substantial evidence or substantial clinical data;

(b) claims that cannabis cures any medical condition; or

(c) content that has a recreational disposition.

(5) A medical cannabis pharmacy may reference a cannabis strain or a medicinal dosage form in targeted marketing.

(6) When posting promotional information about a medical cannabis product for sale online, a medical cannabis pharmacy shall list the total amount of each cannabinoid contained in the product, measured in milligrams.

R68-40-18. Criteria and Process for Issuance of Additional Licenses.

(1) The department may consider the following factors as criteria when determining if additional medical cannabis pharmacy licenses shall be issued pursuant to Subsection 4-41a-1005(1)(d):

(a) high potential for growth in the number of medical cannabis card holders located in one or more regions of the state;

(b) access to medical cannabis home delivery service in the state or in certain regions of the state;

(c) commuting patterns and economic activity in certain regions of the state;

(d) the driving distance for medical cannabis cardholders or potential medical cannabis cardholders residing in certain regions of the state from their home to the nearest medical cannabis pharmacy location; or

(e) the inadequate supply, quality, or variety of medical cannabis in the state or certain regions of the state.

(2) As the department considers one or more factors described in Subsection R68-40-18(1), it shall consult with and consider input from the Utah Department of Health and Human Services, the medical cannabis industry, and the public.

(3) The department's process of consultation and consideration of input shall include meetings with stakeholders and holding of a public hearing during which it will accept public comment.

(4) If the department determines that an additional medical cannabis pharmacy license should be issued, the department shall accept applications for the license in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

R68-40-19. Limited Medical Provider Recommendation Form.

(1) A medical cannabis pharmacy may accept and process a completed "Limited Medical Provider Recommendation for Medical Cannabis" form.

(a) A pharmacy agent or a PMP employed by a medical cannabis pharmacy may perform a form verification.

(b) Only a PMP may make changes or additions to a form after documenting approval of changes or additions that are communicated by an LMP.

(c) An LMP recommendation cannot be entered into the EVS by a PMP or pharmacy agent without a complete DHHS-approved form that is hand-delivered, emailed, or faxed to the medical cannabis pharmacy.

(c) When verifying the validity of the form, a medical cannabis pharmacy shall verify:

(i) the form is complete and no information on the form appears to have been adulterated;

(ii) the suffix of the state-issued professional license number matches specific numbers assigned to the provider's state-issued professional license type;

(iii) there are nine digits in the Drug Enforcement Agency (DEA) license number;

(iv) the clinic name, email address, mailing address, and telephone number appear to be legitimate; and

(v) that an LMP at that clinic completed a form for the patient named in the form.

(2)(a) If the form is missing any part of the verification, a PMP shall investigate any missing or incorrect information.

(b) If a PMP is unable to receive verification of the form from the clinic, the form cannot be processed and the PMP shall continue to contact the clinic to seek verification of the information on the form.

(3)(a) The pharmacy shall maintain a record of the pharmacy employee having received or not received verification of a valid form from the clinic.

(b) For hand-delivered and electronically delivered forms, the pharmacy shall upload the form to the patient's EVS account.

(c) The verification of the form shall be recorded in the "Medical Cannabis Pharmacy Use Only" at the bottom of the form or in the patient's EVS profile.

(d) If a PMP corrected or added information on the form upon order of the LMP, a note documenting the change shall be recorded.

(4) If the medical cannabis pharmacy believes a form to be fraudulent, the pharmacy shall notify the DHHS via email within 24 hours of the first receipt of the form.

R68-40-20. Agent Duties and Responsibilities.

(1) All medical cannabis pharmacy employees shall be registered as PMP or a medical cannabis pharmacy agent.

(2) A pharmacy agent may perform the following duties:

(a) assist a prospective cardholder with an application for a medical cannabis card;

(b) assist the cardholder with understanding available products, proper use of a medical device, medical cannabis strains, and methods of consumption or application within the dosing guidelines specified by an RMP or PMP;

(c) verify the status of an individual's medical cannabis card and dosing guidelines in a patient recommendation within the ICS;

(d) enter and retrieve information from the ICS;

(e) authorize entry of a cardholder into the cardholder counseling area;

(f) take a refill order from an RMP;

(g) provide pricing and product information;

(h) process cardholder payment, including the issuance of receipt, refund, credit, and cash;

(i) prepare labeling for a product;

(j) retrieve medical cannabis and medical cannabis devices from inventory;

(k) accept a new order of medical cannabis or a medical cannabis device, orders left on voicemail for a PMP to review;

(l) verbally offer to a cardholder, the opportunity for counseling with a PMP regarding medical cannabis, or a medical cannabis device;

(m) assist with dispensing of product to a cardholder;

(n) screen calls for a PMP;

(o) prepare an inventory of medical cannabis and medical cannabis device;

(p) transport medical cannabis, or medical cannabis device; and

(q) assist with maintaining a safe, clean, and professional environment.

(3) A pharmacy agent may not perform the following duties:

(a) receive dosing guidelines for a patient's recommendation over the phone or in-person;

(c) determine or modify dosing guidelines in a patient's recommendation; or

(d) provide counseling or consultation regarding a patient's medical condition, or medical treatment.

R68-40-21. Agent Application Procedures.

(1) The application procedures established in this section shall govern an application for initial issuance of a pharmacy agent registration card, under Title 4, Chapter, 41a, Cannabis Production Establishments and Pharmacies

(2) Each pharmacy agent card applicant shall apply using forms available from the department.

(3) The department may issue a card to an applicant who submits a complete application if the department determines that the applicant meets the card requirements.

(4) The department shall provide written notice of denial to an applicant who submits a complete application if the department determines that the applicant does not meet the card requirements.

(5) The department shall notify an applicant who submits an incomplete application that their application is closed unless the applicant corrects the deficiency within the time period specified in the notice and otherwise meets card requirements.

(6) The written notice of denial or incomplete application shall be sent to the applicant's last email address shown in the EVS database.

(7)(a) Each applicant shall maintain a current email address with the department.

(b) Notice sent to the last email address on file with the department constitutes legal notice.

R68-40-22. Agent Renewal Application Procedures.

(1) Renewal application procedures established in the rule shall apply to applicants applying for renewal of a pharmacy agent registration card, under Title 4, Chapter, 41a, Cannabis Production Establishments and Pharmacies.

(2) Each card applicant shall apply using renewal application forms available from the department.

(3) The department shall issue a card to an applicant who submits a complete renewal application if the department determines that the applicant meets the card requirements.

(4) The department shall deny an applicant who submits a complete renewal application if the department determines that the applicant does not meet the card requirements.

(5)(a) The department shall notify an applicant who submits an incomplete application.

(b) The notice shall advise the applicant that the renewal application is incomplete and closed unless the applicant corrects the deficiency within the time specified in the notice and otherwise meets card requirements.

(6)(a) The department shall send a renewal notice to each cardholder before the expiration date shown on the cardholder's card.

(b) The notice shall include directions for the cardholder to renew the card via the department's website.

(7) Renewal notices shall be sent by email to the cardholder's last email shown in the EVS database.

(8) A renewal notice shall advise each cardholder that a card will automatically expire on the expiration date and will no longer be valid.

~~(9)(a) A pharmacy agent shall renew their pharmacy agent registration card with the department within one year of its expiration date. (b) If an applicant fails to renew an expired card within one year, they will be required to submit a new online registration form.~~

~~**R68-40-23. Continuing Education Requirements.**~~

~~The certification standard for initial or renewal registration of a pharmacy agent card will be successful completion of a continuing education course regarding state medical cannabis law and patient privacy and federal health information privacy laws that is offered or approved by the department.~~

~~**KEY: medical cannabis, medical cannabis pharmacy, marijuana**~~
~~**Date of Last Change: January 2, 2024**~~
~~**Authorizing, and Implemented or Interpreted Law: 4-41a-1101(12), 4-41a-1104(4), 4-2-103(1)(i)]**~~

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal		
Rule or Section Number	**R68-41**	**Filing ID: 56343**

Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
Building:	TSOB South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	**Phone:**	**Email:**
Amber Brown	385-245-5222	ambermbrown@utah.gov
Brandon Forsyth	801-710-9945	bforsyth@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R68-41. Home Delivery and Courier

3. Purpose of the new rule or reason for the change:
This rule is being repealed so it can be simultaneously reenacted under a new title specific to medical cannabis and industrial hemp, Title R66.
4. Summary of the new rule or change:
This rule is repealed in its entirety so it can be reenacted under a new title specific to medical cannabis and industrial hemp. The substantive content will remain the same under new Rule R66-6. (EDITOR'S NOTE: The proposed new Rule R66-6 is under ID No. 56344 in this issue, April 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 proposed repeal does not have a fiscal impact to the state because the rule text is not changing between the repeal and the new rule. It is reenacted as new Rule R66-6.
B) Local governments:
Local governments will not be impacted because they do not participate in the medical cannabis program.
C) Small businesses ("small business" means a business employing 1-49 persons)**:**
This proposed repeal does not have a fiscal impact to small businesses because the rule text is not changing between the repeal and the new rule.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
This proposed repeal does not have a fiscal impact to non-small businesses because the rule text is not changing between the repeal and the new rule.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
This proposed repeal does not have a fiscal impact to other persons because the rule text is not changing between the repeal and the new rule.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**
Compliance costs are not impacted because the substance of the rule is not changing 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			
Fiscal Cost	**FY2024**	**FY2025**	**FY2026**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2024**	**FY2025**	**FY2026**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

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

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024
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 W. Buttars, Commissioner	**Date:**	03/07/2024

R68. Agriculture and Food, Plant Industry.

[~~R68-41. Home Delivery and Courier.~~

~~R68-41-1. Authority and Purpose.~~

~~(1) Subsection 4-41a-1202(1) authorizes this rule.~~

~~(2) This rule establishes medical cannabis home delivery operating standards, home delivery agent operating standards, courier agent application procedures, courier agent renewal application procedures, and courier agent certification standards.~~

~~R68-41-2. Definitions.~~

~~(1) "Card" means any type of medical cannabis card or registration card, whichever applies, authorized under Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.~~

~~(2) "Courier agent" means a medical cannabis courier agent.~~

~~(3) "Department" means the Utah Department of Agriculture and Food.~~

~~(4) "DHHS" means the Utah Department of Health and Human Services.~~

~~(5) "Electronic Verification System" or "EVS" means the same as the term is defined in Section 26B-4-201.~~

~~(6) "Inventory Control System" or "ICS" means the same as the term is defined in Section 4-41a-103.~~

~~(7) "Manifest" means the document required under Subsection 4-41a-404(2) to be in the possession of any individual transporting medical cannabis that does not have a valid medical cannabis card.~~

~~(8) "Medical cannabis" for the purposes of this rule, means medical cannabis or a medical cannabis device, as the terms are defined in Section 26b-4-201.~~

~~(9) "Pharmacy agent" means a medical cannabis pharmacy agent.~~

~~(10) "Pharmacy Medical Provider" or "PMP" means the same as the term is defined in Subsection 26B-4-201(45).~~

(11) "State electronic verification system" means the same as the term is defined in Section 26B-4-202 and Subsection 4-41a-102(44).

R68-41-3. Home Delivery Service -- Operating Standards.

(1) In addition to general operating standards established in Section 4-41a-1203 through Section 4-41a-1205, home delivery medical cannabis pharmacies, pharmacy agents, and couriers shall comply with the operating standards established in this rule.

(2) The following operating standards apply to home or caregiver facility delivery medical cannabis pharmacies and couriers.

(3) Pharmacies and couriers shall:

(a) maintain an updated written operating plan for home delivery service, describing a plan to comply with standards established in this section and meeting the requirements of Subsection 4-41a-1202(14);

(b) ensure accurate record keeping of delivery information in the ICS;

(c) maintain a record of at least five years of the initials or unique identification codes that identify each pharmacy agent or courier agent;

(d) lock medical cannabis that is transported in a fully enclosed box, container, or cage, that is secured inside a delivery vehicle and ensure appropriate storage temperature throughout the delivery process to maintain the integrity of the product;

(e) maintain a current paper or electronic list of any employee who makes deliveries that includes each employee's name, department registration license classification and license number, and registration expiration date;

(f) upon request, provide the department with information regarding any vehicle used for the delivery service; including the vehicle's make, model, color, vehicle identification number, license plate number, insurance number, and Division of Motor Vehicle registration number;

(g) ensure that the manifest is not modified in any way after a pharmacy agent or courier agent departs from a home delivery medical cannabis pharmacy facility with a shipment appearing on the manifest;

(h) ensure that no person other than a pharmacy agent or courier agent is in a delivery vehicle during delivery or during the time medical cannabis is in the vehicle; and

(i) ensure that trip log documentation showing a specific route of delivery exists for a route driven by a pharmacy agent or courier agent on a specific day is immediately available for review by the department, upon request.

(4) When delivering medical cannabis to a medical cannabis cardholder's home or a caregiver facility, a pharmacy agent or courier agent may not:

(a) drop off medical cannabis with anyone other than a medical cannabis cardholder or a caregiver facility;

(b) perform a home delivery before 6 a.m. or after 10 p.m.;

(c) leave medical cannabis unattended in a delivery vehicle for more than one hour;

(d) make changes in dosage or quantity at the request of the medical cannabis cardholder during delivery; or

(e) consume medical cannabis while delivering medical cannabis.

(5) When delivering medical cannabis, a pharmacy agent or courier agent employed by a home delivery medical cannabis pharmacy or courier shall:

(a) wear an identification tag or similar form of identification that clearly identifies them to a medical cannabis cardholder and includes their position; and

(b) provide each cardholder or caregiver facility receiving a shipment with printed material that includes their contact information and hours when a PMP is available for counseling over the phone.

(6) Each pharmacy agent or courier agent shall ensure that vehicles used for home delivery::

(a) do not have any marking or other indication on the exterior that identifies what is being transported;

(b) are maned;

(c) have an active alarm system;

(d) have a global positioning system (GPS) monitoring device that is:

(i) not easily removable;

(ii) attached to the vehicle at any time that the vehicle contains medical cannabis; and

(iii) capable of storing and transmitting GPS data so it can be monitored by the home delivery medical cannabis pharmacy during transport of medical cannabis; and

(e) do not transport medical cannabis beyond the locations identified on a manifest.

(7) The limitation in Subsection R68-41-3(6)(f) does not apply to the transport of medical cannabis from a medical cannabis cardholder to be returned to the home delivery medical cannabis pharmacy.

(8) Vehicles used for home delivery may be subject to inspection by the department at any time.

(9) If medical cannabis goes missing during a home delivery route, the pharmacy agent or courier agent, shall:

(a) notify the home delivery medical cannabis pharmacy's supervising PMP within 24 hours of when the pharmacy agent or courier agent first became aware of the missing product;

(b) provide information regarding the missing product to the department and local law enforcement; and

(c) log the missing products into the ICS.

(10) A courier may not store medical cannabis at its facility. Medical cannabis delivered by the courier must be picked up from a home delivery medical cannabis pharmacy facility and either delivered to the medical cannabis cardholder's residence or returned to the home delivery medical cannabis pharmacy facility.

R68-41-4. Home Delivery Agent -- Operating Standards.

(1) In addition to operating standards established in Section 4-41a-1203 through Section 4-41a-1205 pharmacy and courier agents shall comply with the operating standards established in this rule.

(2) Each pharmacy and courier agent shall:

(a) ensure accurate records of delivery information are documented in the ICS;

(b) ensure that medical cannabis is locked in a fully enclosed box, container, or cage when transported and that appropriate storage temperature is maintained throughout the delivery process;

(c) ensure that the manifest is not modified in any way after they depart from a home delivery medical cannabis pharmacy facility with the shipment appearing on the manifest; and

(d) ensure that no person other than a pharmacy agent or courier agent is in a delivery vehicle during delivery or during the time medical cannabis is in the vehicle.

~~(3) When delivering medical cannabis to a cardholder's home, a pharmacy agent or courier agent may not:~~

~~(a) drop off medical cannabis with anyone other than a medical cannabis cardholder or a caregiver facility employee;~~

~~(b) perform a home delivery before 6 a.m. or after 10 p.m.;~~

~~(c) leave medical cannabis unattended in a delivery vehicle for more than 60 minutes unless the courier agent or pharmacy agent is staying overnight in the process of conducting a delivery;~~

~~(d) make a change in dosage or quantity at the request of the cardholder during a delivery;~~

~~(e) consume medical cannabis while delivering medical cannabis; or~~

~~(f) transport medical cannabis beyond the locations that appear on the manifest.~~

~~(4) When delivering medical cannabis, a pharmacy agent or courier agent shall:~~

~~(a) wear an identification tag or similar form of identification that clearly identifies them to a cardholder and includes their position; and~~

~~(b) provide each cardholder or facility caregiver with printed material that includes a home delivery medical cannabis pharmacy's contact information and hours for counseling over the phone with a PMP.~~

~~(5) If medical cannabis goes missing during a home delivery route, the pharmacy agent or courier agent shall notify the home delivery medical cannabis pharmacy's supervising PMP within 24 hours of when the medical cannabis pharmacy agent first became aware of the missing product.~~

~~R68-41-5. Medical Cannabis Courier Agent -- Application Procedures.~~

~~(1) The application procedures established in this section shall govern applications for the initial issuance of a courier agent registration card under Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies.~~

~~(2) Each card applicant shall apply using forms available in the EVS from the department.~~

~~(3) The department may issue a card only if the applicant meets the card requirements established under Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies and department rule.~~

~~(4) The department shall provide written notice of denial to an applicant who submits a complete application if the department determines that the applicant does not meet the card requirements.~~

~~(5) If the department receives an incomplete application, they shall provide written notice to the applicant indicating that the application is closed unless the applicant corrects the deficiency within the time specified in the notice, and otherwise meets all card requirements.~~

~~(6) The department shall send the written notice of denial or incomplete application to the applicant's last email address shown in the Department's EVS database unless the applicant has requested to be notified by regular mail.~~

~~(7) Each applicant shall maintain a current email and mailing address with the department. Notice to the last email address on file with the department constitutes legal notice unless the applicant has requested notification by regular mail.~~

~~R68-41-6. Medical Cannabis Courier Agent - Renewal Application Procedures.~~

~~(1) Renewal application procedures established in this section shall govern applications to renew a courier agent registration card under Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies.~~

~~(2) Each card applicant shall apply using renewal application forms available from the department.~~

~~(3) The department shall issue a card to an applicant who submits a complete renewal application if the department determines that the applicant meets the card requirements.~~

~~(4) The department shall provide written notice of denial to an applicant who submits a complete renewal application if the department determines that the applicant does not meet the card requirements.~~

~~(5) If an applicant submits an incomplete application, the department shall provide written notice indicating that the renewal application is closed unless the applicant corrects the deficiency within the time period specified in the notice and otherwise meets all card requirements.~~

~~(6) The department shall send a renewal notice to each cardholder at least 30 days before the expiration date shown on the cardholder's card. The notice shall include instructions to renew the card via the department's website and shall be sent to the cardholder's last email in the EVS database unless they have requested notification by regular mail.~~

~~(7) Each cardholder shall maintain a current email address and mailing address with the department. Emailing to the last email address furnished to the department constitutes legal notice unless the cardholder requests notification by regular mail.~~

~~(8) A courier agent shall renew their courier agent registration card with the department within five days after the registration card's expiration date. Failure to renew an expired card within five days shall result in the applicant having to submit a new application for a courier agent registration card and pay for a new fingerprint background check.~~

~~R68-41-7. Medical Cannabis Courier Agent - Continuing Education Requirement.~~

~~The department's certification standard for initial and renewal registration of a medical cannabis courier agent card is successful completion of a one-hour continuing education course offered or approved by the department regarding state medical cannabis law, patient privacy and federal health information privacy laws, and other topics.~~

~~KEY: medical cannabis, medical cannabis courier agent, medical cannabis home delivery~~
~~Date of Last Change: January 2, 2024~~
~~Authorizing, and Implemented or Interpreted Law: 4-41a-1202~~|

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R277-302**	**Filing ID: 56385**

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:

R277-302. Educator Licensing Renewal

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

This rule is being updated to clarify the difference between an educator license renewal using simplified procedures and a license renewal that requires verification.

4. Summary of the new rule or change:

The amendments specifically update Section R277-302-4 requirements for an educator license that does not require verification and a license renewal that requires verification.

In addition, the amendments in Section R277-302-5 require an educator to retain all documentation related to a renewal application for one year instead of two years, from the date of renewal.

Fiscal Information

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

A) State budget:

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

The changes will not impact the Utah State Board of Education (USBE) or other state agency budgets. These clarifying changes impact individual educator licensing procedures only.

B) Local governments:

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

The changes clarify the difference in simplified procedures and procedures requiring verification. Local Education Agencies (LEAs) will still use their existing procedures in assisting educators with licensure and there are no additional steps or costs created.

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 LEAs and educators.

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

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

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

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

These changes clarify the difference in simplified procedures and procedures requiring verification. There are no additional steps or costs for educators.

Educators are also required to keep their documentation for licensure for just one year compared to two.

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.

These changes clarify the difference in simplified procedures and procedures requiring verification. There are no additional steps or costs for educators.

Educators are also required to keep their documentation for licensure for just one year compared to two.

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

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

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

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

Citation Information

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

Public Notice Information

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

A) Comments will be accepted until:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024

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:**	03/15/2024

R277. Education, Administration.
R277-302. Educator Licensing Renewal.
R277-302-1. Authority and Purpose.

(1) This rule is authorized by:

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

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

(c) Section 53E-6-201, which gives the Board power to issue licenses.

(2) The purpose of this rule is to ensure that licensed educators maintain and enhance their education-related skills and knowledge throughout the duration of the license.

R277-302-2. Definitions.

(1) "Alternate professional learning activities" means activities that enhance or improve the education-related skills and knowledge of an educator serving in school, but not in a role as a primary educator, including:

(a) work as a paraprofessional;

(b) substitute teaching in a public school;

(c) volunteering in a public school;

(d) travel with an educational purpose or component;

(e) presenting at professional conferences, including the time to design or prepare the presentation;

(f) educational research;

(g) work as a department chair in a public school.

(2) "Conflict of interest" means a business, family, monetary, or relationship concern that may cause a reasonable educator to be unduly influenced or that creates the appearance of undue influence.

(3) "Educator" has the same meaning as defined in Section 53E-6-102.

(4) "Educator collaboration opportunities" mean opportunities in which educators engage in data analysis in collaboration with colleagues to inform instructional adjustments and student need, including through professional learning communities.

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

(6) "Licensed administrator" means:

(a) an individual holding a current Utah educator license with a school leadership license area of concentration;

(b) an individual, familiar with the requirements of this rule, holding an equivalent license in another jurisdiction; or

(c) an individual currently employed in an administrative position in a Utah charter school or accredited private school.

(7)(a) "Professional education entity" means a public or private organization engaged in services related, in whole or in part, to promoting education.

(b) "Professional education entity" includes:

(i) an LEA;

(ii) the Board, including its staff;

(iii) another elected or appointed government body responsible for education policy;

(iv) a regional service center;

(v) a union or association of professional educators;

(vi) an association whose members are comprised of Utah LEAs or schools;

(vii) an accredited p-12 private institution; and

(viii) a regionally accredited college or university.

(8) "Professional learning experiences" means learning experiences in:

(a) curriculum development;

(b) school improvement;

(c) mentoring and training new teachers; and

(d) instructional coaching.

(9) "Professional service" means service in a local, state, or national government or professional education association leadership role.

R277-302-3. Educator License Renewal Requirements.

(1) An individual that holds a current Utah educator license may apply to the Superintendent for renewal of the license after meeting all requirements detailed in this rule between January 1 and June 30 of the year in which the educator's license expires.

(2) An individual that holds an expired associate or professional Utah educator license may apply to the Superintendent for renewal of the license after meeting all requirements detailed in this rule.

(3) A Utah educator license holder shall accrue 100 license renewal hours prior to license renewal, beginning with the date of each new renewal.

(4) Prior to applying for renewal, an individual that holds a professional Utah educator license shall:

(a) complete license renewal hours as detailed in Section R277-302-7 during the five years prior to the date of renewal;

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

(c) maintain ongoing background monitoring in accordance with Section 53G-11-403.

(5) Prior to applying for renewal, an individual that holds an associate Utah educator license shall:

(a) have less than three years of experience in an educator position related to the area of licensure in a public or accredited private school in Utah;

(b) meet the current content knowledge requirements for an associate educator license related to the educator's area of licensure detailed in Section R277-301-4;

(c) redo the professional learning modules required for an associate educator license detailed in Section R277-301-4 during the six months prior to the date of renewal;

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

(e) maintain ongoing background monitoring in accordance with Section 53E-6-401.

(6) Prior to qualifying for renewal, an individual that holds an LEA-specific Utah educator license shall:

(a) comply with the LEA's policy for employment and professional learning;

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

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

(d) maintain ongoing background monitoring in accordance with Section 53E-6-401.

R277-302-4. Superintendent Responsibilities.

(1) The Superintendent shall establish application procedures for Utah educator license renewal that:

(a) include simplified procedures for an educator that:

(i) is currently employed in an educator position by a professional education entity;

(ii) has been employed in an educator position by a professional education entity in each of the years covered by the individual's Utah educator license; and

(iii) has participated in professional learning activities as required by Subsection R277-302-6(1);

(b) where Subsection (1)(a) does not apply, require verification of the educator's completed license renewal hours by the signature of a current licensed administrator without a conflict of interest with the educator; and

(c) is completed through an automated, online platform, to the extent reasonably possible given existing technology and resources.

(2) The Superintendent shall monitor a random sample of approximately 10% of annual renewals that utilize automated or online procedures.

(3) The Superintendent shall provide guidance to educators to the extent that funding allows that:

(a) promotes participation in activities that are not cost intensive;

(b) encourages licensed administrators to consider a broad variety of activities under Subsection R277-302-7(4)(d); and

(c) supports educators in learning how and where to earn renewal hours without directly referring educators to paid services.

(4)(a) The Superintendent may monitor any renewal transaction for accuracy and compliance with this rule.

(b) The Superintendent may void a license transaction that was completed on the basis of inaccurate information at any time with notice to the license holder.

(5) If the Superintendent identifies evidence of intentional misconduct, which violates Rule R277-217 during monitoring in accordance with Subsection (4), the Superintendent shall report the allegations to UPPAC.

(6) The Superintendent shall provide a model policy to facilitate the resolution of a conflict between a licensed educator and a licensed administrator that arises based on the requirement detailed in Subsection R277-302-4(1)(b), which may include a provision for review of the issues by the Superintendent.

R277-302-5. Educator Responsibilities.

(1) An educator is responsible for acquiring and retaining documentation and signatures related to the completion of professional learning activities used to meet the requirements of this rule.

(2) An educator shall finalize all renewal documentation during the six months prior to the date of renewal.

(3) An educator shall retain all documentation related to a renewal application under this rule for no less than [~~two years~~]one year from the date of renewal.

(4) If an educator's renewal application is identified for monitoring in accordance with Subsections R277-302-4(2) and (3), the educator shall submit any requested documentation to the Superintendent in a timely manner.

R277-302-6. LEA Responsibilities.

(1) An LEA that employs an individual holding a professional Utah educator license shall provide opportunities for the individual to complete a minimum of the equivalent of 20 license renewal hours as defined in Section R277-302-7 of professional learning activities to all such license holders annually, which shall include trainings required by state law or Board rule.

(2) An LEA shall maintain or provide to the educator documentation of professional learning activities under Subsection (1).

(3) If an individual that holds a professional Utah educator license does not participate in the activities provided under Subsection (1), the educator's LEA shall notify the educator and the Superintendent that the educator is not eligible to utilize the simplified procedures described in Subsection R277-302-4(1)(a).

R277-302-7. Professional Renewal Activities.

(1) An educator with a current assignment in a Utah LEA shall complete renewal hours in at least two of the areas identified in this Section R277-302-7, subject to the maximum renewal hours in Subsection (4).

(2) An educator without a current assignment in a Utah LEA shall complete renewal hours in any area identified in this Section R277-302-7 with no maximum renewal hours in any given area.

(3) Notwithstanding Subsections (1) and (2):

(a) an educator may receive 100 hours toward renewal for earning national board certification, with no further renewal hours required;

(b) an educator may receive 20 hours per national board certification component completed during any given renewal cycle; or

(c) an educator who held a Level 3 license prior to July 1, 2020, may receive 25 renewal hours in recognition of the Level 3 requirements in the educator's first renewal after July 1, 2020.

(4) An educator may complete renewal hours in the following areas:

(a) Professional learning experiences, up to a maximum of 90 hours, as follows:

(i) one renewal hour for each clock hour of scheduled professional learning activities sponsored or approved by a professional education entity in the following areas:

(A) university coursework;

(B) USBE professional learning;

(C) curriculum development;

(D) school improvement;

(E) mentoring and training of new teachers;

(F) training and support designed specifically for new teachers or teachers identified as ineffective on the teacher's annual evaluation;

(G) instructional coaching; or

(H) conferences, workshops, institutes, trainings, symposia, or staff-development programs; or

(ii) ten renewal hours per year for a teacher evaluation deemed highly effective;

(b) Educator collaboration opportunities, with one renewal hour for each clock hour up to a maximum of 30 hours;

(c) Professional service, with one renewal hour for each clock hour up to a maximum of 50 hours;

(d) Alternate learning opportunities, with one renewal hour for each clock hour up to a maximum of 30 hours; and

(e) Teaching during the COVID-19 pandemic, with 20 hours for each year the educator had a teaching assignment during:

(i) the 2019-20 school year;

(ii) the 2020-21 school year; and

(iii) the 2021-22 school year.

R277-302-8. Licensing Renewal Point Options for Grandfathered Licenses.

(1) Notwithstanding Subsection R277-302-3(4)(a), an educator whose professional Utah educator license has an expiration date prior June 30, 2025 may earn license renewal points in accordance with this Section R277-302-8 on the educator's first subsequent renewal, in addition to the options described in Section R277-302-7 if the educator does not meet the renewal requirements detailed in this rule.

(2) If an educator chooses to earn license renewal points under this Section R277-302-8:

(a) an educator who held a level two or three license prior to June 30, 2020, shall accrue 200 points in the five years prior to applying for renewal; and

(b) an educator who held a level one license prior to June 30, 2020 shall accrue 100 points in the three years prior to applying for renewal.

(3) An educator may earn license renewal points for employment in a position requiring a Utah educator license, as follows:

(a) An educator may earn 35 license renewal points per year of employment, up to a maximum of 105 points per license cycle; and

(b) An educator may only count years of employment with satisfactory performance evaluations for license renewal points.

(4) An educator may earn license renewal points for content and pedagogy testing, as follows:

(a) A qualifying test must be approved by the Superintendent;

(b) For each qualifying test submitted with a passing score, the educator qualifies for 25 license renewal points; and

(c) An educator may submit no more than two qualifying test scores per license cycle.

(5) An educator may receive license renewal points for service in a leadership role in a national, state-wide, or LEA-recognized professional education organization, as follows:

(a) The educator's direct administrative supervisor shall approve qualifying service under Subsection (5); and

(b) Each clock hour of participation qualifies for one license renewal point, not to exceed ten points per year.

(6) An educator may receive license renewal points for substituting in a public school or accredited private school in Utah, as follows:

(a) The educator must have an inactive license during the school year the points are earned;

(b) Two hours of documented substitute time equals one license renewal point, not to exceed 25 points per year or 50 points per license cycle; and

(c) A licensed administrator at the LEA where the substitute teaching occurred shall verify hours on LEA or school letterhead;

(7) An educator may receive license renewal points for paraprofessional or volunteer service in a public school or accredited private school in Utah, as follows:

(a) The educator must have an inactive license during the school year the points are earned;

(b) Three hours of documented paraprofessional or volunteer service equals one license renewal point, not to exceed 25 points per year or 50 points per license cycle; and

(c) A licensed administrator at the LEA where the paraprofessional or volunteer service occurred shall verify hours on LEA or school letterhead.

KEY: license renewal, educators
Date of Last Change: 2024[~~July 22, 2022~~]
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4)

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R277-305**	**Filing ID: 56386**

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:
R277-305. School Leadership License Areas of Concentration and Programs
3. Purpose of the new rule or reason for the change:
This rule is being amended to update requirements for school leadership license areas of concentration.
4. Summary of the new rule or change:
The amendments specifically remove the requirements specified in school leadership license areas of concentration Section R277-305-3. There is also an amendment to update a rule reference in Section R277-305-4 "School Leadership Preparation Programs".

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have fiscal impact on state government revenues or expenditures. The changes simplify the licensing procedures for school leadership licensing and update a rule reference. The changes to school leadership licensing are that those holding a valid school leadership license in another jurisdiction under the NASDTEC interstate agreement can be granted a license without verification of experience or a preparation program. These changes are not expected to add any costs for the Utah State Board of Education (USBE) or any other state agency.
B) Local governments:
This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. The changes simplify the licensing procedures for school leadership licensing and update a rule reference. The changes to school leadership licensing are that those holding a valid school leadership license in another jurisdiction under the NASDTEC interstate agreement can be granted a license without verification of experience or a preparation program. These changes do not add costs for Local Education Agencies (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. The changes only impact educators being licensed for school leadership and do not impact small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

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

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

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

The changes impact those obtaining a school leadership license and specifically simplify the process for those with a license from another jurisdiction.

The changes to school leadership licensing are that those holding a valid school leadership license in another jurisdiction under the NASDTEC interstate agreement can be granted a license without verification of experience or a preparation program.

This does not add costs for the individual educators or any other persons.

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 impact those obtaining a school leadership license and specifically simplify the process for those with a license from another jurisdiction.

The changes to school leadership licensing are that those holding a valid school leadership license in another jurisdiction under the NASDTEC interstate agreement can be granted a license without verification of experience or a preparation program.

This does not add costs for the individual educators or any other persons.

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

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

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

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

Citation Information

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

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

Public Notice Information

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

A) Comments will be accepted until:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024
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:**	03/15/2024

R277. Education, Administration.
R277-305. School Leadership License Areas of Concentration and Programs.
R277-305-1. 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) Section 53E-6-201, which permits the Board to issue certificates for educators.

(2) The purpose of this rule is to:

(a) specify the requirements for a professional school leadership license area of concentration;

(b) specify the standards which the Board expects of a school leadership preparation program prior to program approval.

R277-305-2. Definitions.

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

(2) "School leadership license area of concentration" means the initial credential issued by the Board that authorizes a holder to be employed as a school principal, vice-principal, or assistant principal.

R277-305-3. School Leadership License Area of Concentration Requirements.

(1) The Superintendent shall issue a professional school leadership license area of concentration to an individual that applies for the license and meets all requirements in this section.

(2) The requirements for a professional school leadership license area of concentration shall include either:

(a)(i) a master's degree or more advanced degree;

([~~b~~]ii) passage of a school leadership assessment approved by the Superintendent; and

([~~c~~)(]iii) a recommendation from a Board-approved school leadership preparation program pursuant to the process described in Rule R277-303; or

([~~ii~~]b) [~~subject to Subsection (3),~~]a valid school leadership license in another jurisdiction under the NASDTEC interstate agreement.

[~~(3) Prior to being awarded a school leadership license area of concentration, an applicant that holds a valid school leadership license in another jurisdiction under the NASDTEC interstate agreement as described in Subsection (2)(c)(ii) shall have completed:~~

~~(a) at least one year of school leadership experience in that state; or~~

~~(b) a school leadership preparation program reasonably equivalent to a Board-approved school leadership preparation program pursuant to the process described in Rule R277-303.~~]

R277-305-4. School Leadership Preparation Programs.

(1) Prior to approval by the Superintendent, a preparation program for school leadership shall:

(a) demonstrate how it will prepare candidates to meet the Utah E[~~e~~]ducational L[~~l~~]eadership Standards described in Rule R277-[~~530~~]330;

(b) subject to Subsection (2), establish weighted entry requirements that consider prior leadership experiences of applicants and are designed to select high quality candidates to enter the licensure program;

(c) include school-based clinical experiences for a candidate to observe, practice skills, and reflect on school leadership that:

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

(ii) are progressively more complex;

(iii) occur in multiple schools;

(iv) include working with both elementary and secondary teachers and students; and

(v) occur throughout the preparation program;

(d) require the demonstration of competency in:

(i) properly utilizing data, including student performance data, to evaluate educator and school performance and provide actionable information to educators to improve instruction;

(ii) facilitating educator use of technology to support and meaningfully supplement the learning of students;

(iii) collaborating with stakeholder groups to create a shared vision, mission, and goals for a school;

(iv) implementing the shared vision, mission, and goals for a school:

(A) as a principal; and

(B) as an assistant principal supporting the school principal;

(v) communicating effectively with parents, community groups, staff, and students;

(vi) recognizing effective and ineffective instructional practice in order to ensure authentic learning and assessment experiences for all students;

(vii) implementing a multi-tiered system of supports in individual classrooms and the school as a whole;

(viii) counseling and coaching educators in relation to the educator's evaluation, professional learning, and student performance to improve the educator's practice;

(ix) understanding the laws and legal ramifications surrounding school leadership decisions and practices;

(x) understanding the requirements and LEA responsibilities of the IDEA;

(xi) ensuring a safe, secure, emotionally protective, and healthy school environment, including the prevention of bullying and youth suicide;

(xii) establishing and maintaining a school culture that supports inquiry, risk-taking, innovation, and learning of both students and teachers; and

(xiii) connecting management operations, policies, and resources to the vision and values of the school.

(2) Beginning on January 1, 2020, the entry requirements described in Subsection (1)(b) shall require an individual entering a Board-approved education leadership licensure program to:

(a) clear a USBE fingerprint background check described in:

(i) statute; and

(ii) background check rule;

(b) hold a:

(i) Utah professional educator license; or

(ii) an equivalent out of state license;

(c) have been deemed effective or higher by:

(i) an evaluation system meeting the standards of Rule R277-531; or

(ii) the LEA's equivalent on the applicant's most recent evaluation;

(d) have a confidential recommendation from:

(i) the individual's immediate administrative supervisor; or

(ii) an LEA-level administrator with knowledge regarding the individual's potential as a school leader; and

(e) pass an interview conducted by the program to measure the potential of the individual as a school leader.

(3) Board-approved education leadership licensure program may waive the entrance requirements described in Subsections (2)(b) through (e) based on program established guidelines for no more than [~~ten percent~~]10% of an incoming cohort.

(4) For a program applicant accepted on or after January 1, 2020, an -approved school leadership licensure program shall require multiple opportunities for a program applicant to successfully demonstrate application of knowledge and skills gained through the program in one or more clinical experiences in each of the following competencies:

(a) analyzing school assessment data from common formative assessments, summative assessments, standardized assessments, and interim or benchmark assessments with school staff and with individual teachers;

(b) administering all aspects of a teacher evaluation system that meets the requirements of:

(i) Rule R277-531; or

(ii) the LEA's equivalent;

(c) administering all aspects of an evaluation system for a classified employee;

(d) planning, organizing, conducting, and evaluating the effectiveness of a professional learning activity for school staff;

(e) supporting or overseeing a school-based learning team;

(f) working with a School Community Council, including the annual development and evaluation of a school's Teacher and Student Success Act plan and School LAND Trust plan;

(g) performing formal and informal classroom observations for the purpose of improving instruction;

(h) acting as the LEA representative in IEP and 504 accommodation plan meetings;

(i) appropriately handling cases of student discipline referred to the school office;

(j) supervising school activities and monitoring the process for collecting and handling fees and gate receipts; and

(k) implementing a school's screening and hiring process, including interviews and the notification of successful and unsuccessful applicants.

R277-305-5. Superintendent Responsibilities.

(1) The Superintendent shall ensure that the model mentoring program required under Rule R277-308 includes induction for new school leaders.

(2) The Superintendent shall explore the adoption of a performance-based school leadership assessment and make related recommendations to the Board by September 1, 2020.

(3) The Superintendent shall include a list of resources for potential school leadership candidates to help them prepare for school leadership on the Utah Leading through Effective and Dynamic Education website.

(4) The Superintendent shall implement a network for principal.

(5) The Superintendent shall create a depository of school principal learning resources that can be utilized by LEAs in the Utah Leading through Effective and Dynamic Education website.

KEY: school leadership license, program
Date of Last Change: 2024[~~August 19, 2019~~]
Notice of Continuation: March 11, 2024
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-6-201

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R277-310**	**Filing ID: 56387**

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:
R277-310. International Guest Teachers
3. Purpose of the new rule or reason for the change:
This rule is being updated to clarify the timing of International Guest Teacher License renewals.

4. Summary of the new rule or change:

The amendments specifically change the date in Section R277-310-3 to "June 30 of the fifth school year after the license was issued".

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 change from three years to five years for international guest teacher renewals will not add costs for the Utah State Board of Education (USBE) or other state agencies. The extension of the renewal period simply allows international guest teachers to renew licenses every five years instead of every three years and does not add any costs.

Renewing less often will reduce administrative burden slightly but not have quantifiable cost savings.

B) Local governments:

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

The change from three years to five years for international guest teacher renewals will not add costs for Local Education Agencies (LEAs). The extension of the renewal period simply allows international guest teachers to renew licenses every five years instead of every three years and does not add any costs.

Renewing less often will reduce administrative burden slightly but not have quantifiable cost savings.

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

This rule change is not expected to have fiscal impacts on small business revenues or expenditures. The change from three years to five years for international guest teacher renewals will not add costs for any small businesses. It will only affect LEAs and international guest teachers.

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

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

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

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

The change from three years to five years for international guest teacher renewals will not add costs for international guest teachers or other persons. They will now simply renew their licenses less often.

The extension of the renewal period simply allows international guest teachers to renew licenses every five years instead of every three years and does not add any costs.

Renewing less often will reduce administrative burden slightly but not have quantifiable cost savings.

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

There are no compliance costs for affected persons.

The change from three years to five years for international guest teacher renewals will not add costs for international guest teachers or other persons. They will now simply renew their licenses less often.

The extension of the renewal period simply allows international guest teachers to renew licenses every five years instead of every three years and does not add any costs.

Renewing less often will reduce administrative burden slightly but not have quantifiable cost savings.

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

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0

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

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

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

Citation Information

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

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

Public Notice Information

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

A) Comments will be accepted until:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024

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:**	03/15/2024

R277. Education, Administration.
R277-310. International Guest Teachers.
R277-310-1. 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-6-201(3)(a), which allows the Board to establish the criteria for obtaining educator licenses.

(2) The purpose of this rule is to establish procedures for qualified international guest teachers to be effectively hired and placed by a Utah LEA with assistance and direction from the Superintendent to encourage cultural exchange and foreign language development among Utah public school students.

R277-310-2. Definitions.

(1) "International guest teacher" or "guest teacher" means a foreign educator who:

(a) has earned a public teaching credential or license in a foreign country;

(b) is currently legally residing in the United States and the state of Utah with the specific purpose to teach in Utah public schools; and

(c) is a resident of a foreign country that has a memorandum of understanding with the Board as described in Subsection R277-301-3(1).

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

R277-310-3. Superintendent Responsibilities.

(1) On behalf of the [~~b~~]Board, the Superintendent shall sign a Board-approved memorandum of understanding with the appropriate government agency of the country of origin.

(2) The Superintendent may work with guest teachers and their resident countries and the United States Department of State, if necessary, to secure appropriate visas or travel and work documents for guest teachers to legally teach in the public schools in Utah.

(3) The Superintendent shall verify that guest teachers have appropriate licenses or credentials from the guest teachers' resident countries that satisfy the requirements of Utah law and any applicable federal requirements.

(4) The Superintendent shall work with interested LEAs to make schools aware of guest teachers with specific credentials and language skills and to inform guest teachers about openings in specific grade levels and curriculum areas in various geographic locations in Utah.

(5)(a) The Superintendent shall review and approve a sending country's background check process.

(b) If an applicant successfully passes an approved background vetting process, the applicant meets the requirements of Subsection 53G-11-403(1) and Subsection R277-301-4(4)(a).

(6) The Board may determine that it will seek guest teachers only from foreign countries that provide transportation or per diem expenses or both for the Superintendent representatives to screen and interview potential guest teachers.

(7)(a) Following review and approval of a guest teacher's credentials and background, a guest teacher may receive a professional license.

(b) Notwithstanding Subsection R277-301-5(2), a professional license issued in accordance with this Rule R277-310 is valid [~~for three years~~]until June 30 of the fifth school year after the license was issued.

R277-310-4. International Guest Teacher Requirements.

(1) A guest teacher shall have a United States issued social security number prior to an LEA processing any payment to the guest teacher.

(2) A guest teacher shall cooperate with the Superintendent in required submission of information including criminal background check information, copies of credentials, copies of transcripts in the language and format designated by the Superintendent.

(3) A guest teacher shall assume all responsibility for living and transportation expenses while participating in the international guest teachers program.

(4) A guest teacher shall be responsible for compliance with all professional and ethical public school educator requirements.

(5) A guest teacher who violates an LEA employment policy or the Educator standards under Rule R277-217 may have the teacher's guest employment contract terminated consistent with at will employment provisions.

(6) The conduct of an individual guest teacher may influence continued participation in an international guest teacher program between the Board and a guest teacher's resident country.

R277-310-5. Other Provisions.

(1) The opportunity for a teacher from outside the United States to be licensed to teach in Utah schools with assistance provided by the Superintendent under this rule shall be available only to individuals from countries with which the Board has a memorandum of understanding.

(2) A business or third party may not facilitate a memorandum of understanding between a foreign country and the Board, but may facilitate the hiring process at the request of an LEA.

(3) Notwithstanding this Rule R277-310, an internationally credentialed educator may seek appropriate licensing to teach in Utah schools in accordance with Rule R277-301, even without a host country with a memorandum of understanding with the Board.

(4) It is the responsibility of a prospective guest teacher or the guest teacher's home country to ensure that the guest teacher has the appropriate visa or authorization or both to live and teach in the United States for the agreed upon time period and teaching assignment.

KEY: international guest teachers
Date of Last Change: 2024[~~September 24, 2020~~]
Notice of Continuation: March 11, 2024
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-6-201(3)(a)

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R277-472**	**Filing ID: 56388**

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:

R277-472. Charter School Student Enrollment and Transfers and School District Capacity Information

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

This rule is being updated to clarify requirements for elementary class size calculations.

4. Summary of the new rule or change:

The amendments specifically add the language "except in the case of a split-level class" after "grade level", in Section R277-472-3 'Elementary Class Size Calculations'.

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 language added clarifies how school districts should calculate average elementary class size for determining if schools are at capacity for enrolling students who have been at a charter school. This will affect Local Education Agencies (LEAs) but does not have any impact on the Utah State Board of Education (USBE) or other state agency budgets.

B) Local governments:

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

The language added clarifies how school districts should calculate average elementary class size for determining if schools are at capacity for enrolling students who have been at a charter school.

USBE does not estimate a fiscal impact as the language clarifies the calculations but does not change the underlying requirements for school districts. Charter schools do not have any added costs as the calculations only apply to school districts.

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. The clarification only affects school districts.

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

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

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

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

The language added clarifies how school districts should calculate average elementary class size for determining if schools are at capacity for enrolling students who have been at a charter school.

USBE does not estimate any costs for other persons as this only affects school districts.

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 language added clarifies how school districts should calculate average elementary class size for determining if schools are at capacity for enrolling students who have been at a charter school.

USBE does not estimate any costs for other persons as this only affects school districts.

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

Regulatory Impact Table

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

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

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

Citation Information

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

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

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024
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:**	03/15/2024

R277. Education, Administration.
R277-472. Charter School Student Enrollment and Transfers and School District Capacity Information.
R277-472-1. 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 53G-6-503(2), which directs the Board to make rules for a student transferring between a charter school and the student's boundary school within the student's district of residence and enrolling and withdrawing from charter schools.

(2) The purpose of this rule is to:

(a) provide procedures for a student transferring between a charter school and the student's boundary school within the student's district of residence;

(b) define capacity in district schools to allow for transfers into district schools from charter schools; and

(c) require LEAs to provide notice to parents and students of schools that have space available.

R277-472-2. Definitions.

(1)(a) "Below capacity" means the grade level or program is less than 100%[~~percent~~] of the district, school, or grade level average.

(b) A special program is "below capacity" or available for transfer students from charter schools if the number of assigned students is less than the designated number of students determined by the school district.

(c) An entire elementary or secondary school is "below capacity" if the district determines that the average class size, using calculations of classes and courses in this Rule R277-472, is less than 100%[~~percent~~] of the district elementary or secondary average class size.

(2) "Elementary class size" means the number of students with a primary assignment to a specific teacher.

(a) An extended day class in which a portion of the class arrives early and the other portion stays late shall be counted as one class.

(b) "Elementary class size" shall include all special education students who participate in all or part of the school day excluding those students assigned to a special class.

(3) "Full time equivalent" or "FTE" means the ratio of the contract time worked by an educator compared to the LEA's definition of contract time worked by a full-time employee in the same position.

(4) "Secondary class size" means the secondary school's calculation for each language arts, mathematics, and science course that is typically taught multiple times in the school day, such as 8th grade English, Secondary Math 1, or Earth Systems.

(5)(a) "Special class" means a placement where a student is placed in a classroom and receives specialized instruction and related services, if required, with other students with disabilities.

(b) "Special class" includes students who receive special education and related services outside the regular general education classroom for more than 60% of the school day.

R277-472-3. Elementary Class Size Calculations.

(1) Each school district, or school as determined by the school district, shall calculate an average elementary class size for each grade level.

(2) A school shall calculate average elementary class size by dividing the total number of students in a given grade by the number of full-time licensed teachers assigned to that grade.

(3) A school may not count students assigned to multiple grade level classes, nor the school's respectively assigned teachers, in determining average elementary class size for a grade level, except in the case of a split-level class.

(4) A school shall calculate elementary classes that group students in programs other than by grade level, such as gifted and talented, or programs for students learning English, as a class for determining average elementary class size if students participate for the entire instructional day.

(5) If a school counts students that participate in special programs for part of the school day for determining average elementary class size, the school shall count the students as part of their age-appropriate grade level, together with respective teachers, for purposes of the calculation.

(6) If multiple classes of special programs exist, a school shall determine an average elementary class size for special programs consistent with state, federal, and program standards.

(7) Each school district or school shall calculate a school-wide average class size by dividing the total full-time teachers assigned to direct teaching situations by the total number of students receiving instruction.

(8) A school may not include a student or teacher in a special class in calculating school-wide average class size, but shall include all other special education students and teachers.

R277-472-4. Secondary Class Size Calculations.

(1) Each school district, or secondary school as determined by the district, shall calculate an average secondary class size for each language arts, mathematics and science course that is taught multiple times during a typical school day by dividing the total number of full-

[~~-~~]time teachers assigned to direct teaching situations by the total number of students enrolled.

(2) A school may not include a student or teacher in a special class when calculating average secondary class size, but shall include all other special education students in the calculation.

(3) A school district shall calculate the district-wide average class size for:

(a) each grade level;

(b) each elementary program that enrolls students across grade levels; and

(c) each language arts, mathematics, and science course.

(4) A school district shall calculate district-wide average class size by dividing the total number of FTEs assigned to direct teaching situations by the total number of fully enrolled students.

(5) A school district shall derive all calculations required by this rule using October 1 enrollment and employment data.

(6)(a) In a school district with only one elementary or secondary school, or only one class of any subject or grade level, the school district may calculate the average class size for an entire school or the entire school district by averaging all the classes in the school or the school district.

(b) The school district may then determine that any class size less than the school district or school average class size is below capacity.

R277-472-5. School District School Capacity Information.

(1) A school district shall provide and post the following information to facilitate transfer of students on school district or school websites:

(a) elementary schools within the school district that are below capacity and available for transfer students;

(b) grade levels and special programs within elementary schools that are below capacity and available for transfer students;

(c) secondary schools that are below capacity and available for transfer students based on calculated capacity of language arts, science and mathematics; and

(d) special programs within secondary schools that are below capacity and available for transfer students.

(2) Below capacity standards for individual schools, grade levels, courses or programs do not apply if a school has documentation that the school community council in a public meeting has designated more than one-half of a school's school LAND trust annual allotment to reduce class size in a specific school, grade level, program, or course.

R277-472-6. Charter School Website Requirements.

[~~(1)~~]Each charter school shall post on its website:

([~~a~~]1) admission forms;

([~~b~~]2) student transfer forms;

([~~c~~]3) forms for assurance and parent signature that a student has been admitted to only one public school; and

([~~d~~]4) all information required by Section R277-551-5.

R277-472-7. Enrollment of Transferring Charter School Students in District Schools.

(1) If a charter school student who is a resident of a school district submits required enrollment information for the upcoming school year before June 30, the school district shall enroll the student in the student's boundary school for the upcoming school year.

(2) Notwithstanding Subsection (1), a school district shall enroll a resident student leaving a charter school, which has been closed, in the student's boundary school.

(3) A district may limit resident students who are transferring from a charter school to a district school who submit required enrollment information after June 30 for the upcoming school year to schools, grade levels, programs, and courses that have space available or are below capacity at the district schools.

(4) A school district may not require enrollment procedures or forms from students moving from a charter school to a district school that differ in any way from enrollment procedures or forms required for district students if the charter school students are leaving a charter school after the final grade level offered by the charter school.

(5) If a school changes the location of services for a student with disabilities, the new location may only be considered a change of placement as determined by the student's IEP and consistent with the IDEA.

(6) A school may deny a student enrollment in a public school if the student leaves a public school with disciplinary procedures pending at the previous public school until previous allegations have been resolved.

(7) A charter school and district school shall notify each other of student enrollment consistent with Subsection 53G-6-503(4).

KEY: charter schools, students, transfers
Date of Last Change: 2024[~~January 9, 2020~~]
Notice of Continuation: March 8, 2024
Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53G-6-503(2); 53E-3-401(4)

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R309-515**	**Filing ID: 56380**

Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Building:	Multi-Agency State Office Building	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144830	
City, state and zip:	Salt Lake City, UT 84114-4830	
Contact persons:		
Name:	**Phone:**	**Email:**
Michael Newberry	385-515-1464	mnewberry@utah.gov
Deidre Beck	385-271-7046	dbeck@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R309-515. Facility Design and Operation: Source Development

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

The Division of Drinking Water (Division) is proposing to make nonsubstantive changes to Subsections R309-515-5(5)(f), R309-515-6(13), and R309-515-6(13)(e) to delete references to parts of Rule R309-540, which will no longer be accurate when Rule R309-540 is revised by a separate rulemaking proposal.

The Division is proposing to make substantive changes to Subsection R309-515-6(4) to delete special construction requirements for sewer mains, laterals, and maintenance holes located in Source Protection Zone 2 because the current requirements can rarely be met, and the Division frequently must issue exceptions to the rule requirements, which the Division believes are unnecessary to provide protection of groundwater sources.

4. Summary of the new rule or change:

Subsection R309-515-5(5)(f) includes a reference to Section R309-540-5 for pumps used to transfer water diverted from surface water intake structures, which will be deleted.

Subsection R309-515-6(13) includes a reference to Rule R309-540 for wellhouse construction, which will be deleted.

Subsection R309-515-6(13)(e) includes a reference to Subsections R309-540-5(2)(a) through (h) for well house ventilation, heating, and lighting, which will be deleted.

The proposed amendment to Subsection R309-515-6(4) deletes special construction requirements for sewer mains, laterals, and maintenance holes located in Source Protection Zone 2 but retains them for Source Protection Zone 1. It clarifies that the special requirements apply to sewer mains and laterals carrying wastewater from a building to a public sewer, septic system, or wastewater dispersal system. It clarifies that the special construction requirements don't apply to floor drains.

The proposed amendment deletes Subsection R309-515-6(4)(h), which currently requires, as a special construction requirement, an impermeable cutoff wall along the upgradient edge of sewer trenches in Source Protection Zone 1 for protected aquifers and in Source Protection Zone 2 for unprotected aquifers.

In addition, other nonsubstantive changes were made throughout this rule to conform to the Rulewriting Manual for Utah.

(EDITOR'S NOTE: The proposed repeal and reenact of Rule R309-540 is under ID No. 56379 in this issue, April 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:

After an internal review, staff recommended updating this rule to better align with the needs of water systems.

The current rule contains special construction requirements for sewer mains, laterals, and maintenance holes when locating a new groundwater source. These criteria can rarely be met and exceptions must be issued.

With the rule changes, staff will no longer be required to issue exceptions but plan reviews will still be conducted.

Staff have reviewed all current water systems and all systems are in compliance with the new rule requirements so no cost or savings will be realized.

Any new groundwater source that is proposed will not need to meet this rule but will still require a staff review thus no cost will be incurred by the state, and since staff will continue performing reviews, no savings is anticipated.

B) Local governments:

Many local governments do not own or operate their water system. These local governments are not affected by the rule change.

This rule only affects those local governments that own and operate their own water system. Staff have reviewed all current water systems and all systems are in compliance with the new rule requirements so no cost or savings will be realized.

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

Most small businesses do not own or operate their water system.

This rule only affects those small businesses that own and operate their own water system.

Staff have reviewed all current water systems and all systems are in compliance with the new rule requirements so no cost or savings will be realized.

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

Most non-small businesses do not own or operate their water system.

These non-small businesses are not affected by this rule change. This rule only affects those non-small businesses that own and operate their own water system.

Staff have reviewed all current water systems and all systems are in compliance with the new rule requirements so no cost or savings will be realized.
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 Division does not regulate individuals or private water systems and therefore, this rule change does not have any application.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**
All regulated water systems are already in compliance with the existing rule or are under a compliance from the Division to come into compliance. The revised rule only clarifies and updates the existing rule. Because all systems are currently in compliance, no cost is anticipated.
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 Environmental Quality, Kimberly Shelley, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Subsection 19-4-104(1)(a)(ii)		

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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024
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:	Nathan Lunstad, PE, Division Director	**Date:**	02/29/2024

R309. Environmental Quality, Drinking Water.
R309-515. Facility Design and Operation: Source Development.
R309-515-1. Purpose.

This rule specifies requirements for public drinking water sources. [–]It is intended to be applied in conjunction with Rules R309-500 through R309-550.[-] Collectively, these rules govern the design, construction, operation, and maintenance of public drinking water system facilities. [-]These rules are intended to assure that such facilities are reliably capable of supplying adequate quantities of water that consistently meet applicable drinking water quality requirements and do not pose a threat to general public health.

R309-515-2. Authority.

This rule is promulgated by the Drinking Water Board as authorized by Title 19, [~~Environmental Quality Code,~~]Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii[~~) of the Utah Code Annotated~~]), and in accordance with Title 63G- Chapter 3[~~-of the same, known as the~~], Administrative Rulemaking Act.

R309-515-3. Definitions.

Definitions for certain terms used in this rule are given in Rule R309-110 but may be further clarified [~~herein~~]in Sections R309-515-4 through R309-515-8.

R309-515-4. General.

(1) Issues to be Considered.

The selection, development, and operation of a public drinking water source must be done in a manner that will protect public health and assure that [~~all~~]required water quality standards, as described in Rule R309-200, are met.

(2) Communication with the Division.

Because of the issues described [~~above~~]in Subsection R309-515-4(1), engineers are advised to work closely with the Division to help assure that sources are properly sited, developed, and operated.

(3) Number of Sources and Quantity Requirements.

Community water systems serving more than 100 connections shall have a minimum of two sources, except where served by a surface water treatment plant. [-]For [~~all systems~~]each system, the total developed source capacity shall equal or exceed the peak day demand of the system. [-]Refer to Section R309-510-7 of these rules for procedure to estimate the peak day demand.

(4) Quality Requirements.

In selecting a source of water for development, the designing engineer shall demonstrate to the satisfaction of the Director that the source[~~(s)~~] selected for use in public water systems are of satisfactory quality, or can be treated in a manner so that the quality requirements of Rule R309-200 can be met.

(5) Initial Analyses.

[~~All new~~]New drinking water sources, unless otherwise noted [~~below,~~]in Subsections R309-515-4(5)(a) through (f), shall be analyzed for[~~the following~~]:

(a) [~~all~~]each of the primary and secondary inorganic contaminants listed in Rule R309-200, Table 200-1 and Table 200-5[~~(~~], excluding Asbestos unless it would be required by Subsection R309-205-5(2[~~));~~]);

(b) Ammonia as N; Boron; Calcium; Copper; Lead; Magnesium; Potassium; Turbidity, as NTU; Specific Conductivity at 25 degrees Celsius, micro mhos/cm; Bicarbonate; Carbon Dioxide; Carbonate; Hydroxide; Phosphorous, Ortho as P; Silica, dissolved as SiO_2; Surfactant as MBAS; Total Hardness as $CaCO_3$; and Alkalinity as $CaCO_3$;

(c) pesticides, PCBs, and SOCs as listed in Subsection R309-200-5(3)(a), Table 200-2 unless the system is a transient non-community PWS or, if a community PWS or non-transient non-community PWS, has received waivers in accordance with Subsection R309-205-6(1)(f).[-] The following six constituents have been excused from monitoring in the [~~S~~]state by the EPA, dibromochloropropane, ethylene dibromide, Diquat, Endothall, glyphosate and Dioxin;

(d) VOCs as listed in Subsection R309-200-5(3)(b), Table 200-3 unless the system is a transient non-community PWS; and[~~,~~]

(e) radiologic chemicals as listed in Subsection R309-200-5(4)[-] unless the system is a non-transient non-community PWS or a transient non-community PWS.

[~~All~~](f) Every analys[~~e~~]is shall be performed by a certified laboratory as required by Section R309-205-4 [~~(~~]Specially prepared sample bottles are required[~~),~~].

(6) Source Classification.

Subsection R309-505-7(1)(a)(i) provides information on the classification of water sources. [-]The Director shall classify [~~all~~]each existing or new source[~~s~~] as either:

(a) surface water or [~~ground water~~]groundwater under direct influence of surface water which requires conventional surface water treatment or an approved equivalent; or as[~~,~~]

(b) [~~ground water~~]groundwater not under the direct influence of surface water.

(7) Latitude and Longitude.

The latitude and longitude, to at least the nearest second, or the location by section, township, range, and course and distance from an established outside section corner or quarter corner of each point of diversion shall be submitted to the Director [~~prior to~~]before source approval.

R309-515-5. Surface Water Sources.

(1) Definition.

A surface water source, as is defined in Rule R309-110, shall include[~~, but not be limited, to~~] tributary systems, drainage basins, natural lakes, artificial reservoirs, impoundments, and springs or wells that have been classified as being directly influenced by surface water. [-]Surface water sources will not be considered for culinary use unless they can be [~~rendered~~]made acceptable by conventional surface water treatment or other equivalent treatment techniques acceptable to the Director.

(2) Pre-design Submittal.

The following information must be submitted to the Director and approved in writing before commencement of design of diversion structures [~~and/~~]or water treatment facilities:

(a) a copy of the chemical analyses required by Rule R309-200 and described in Subsection R309-515-4(5[~~) above;~~]); and[~~,~~]

(b) a survey of the watershed tributary to the watercourse along which diversion structures are proposed. [-]The survey shall include[~~, but not be limited to~~]:

(i) determining possible future uses of impoundments or reservoirs;

(ii) the present stream classification by the Division of Water Quality, any obstacles to having a stream[~~(s)~~] reclassified 1C, and determining degree of watershed control by owner or other agencies;

(iii) assessing degree of hazard to the supply by accidental spillage of materials that may be toxic, harmful or detrimental to treatment processes;

(iv) obtaining samples over a sufficient period[~~of time~~] to assess the microbiological, physical, chemical and radiological characteristics and variations of the water;

(v) assessing the capability of the proposed treatment process to reduce contaminants to applicable standards; and[~~,~~]

(vi) consideration of currents, wind and ice conditions, and the effect of tributary streams at their confluence.

(3) Pre-construction Submittal.

Following approval of a surface water source, the following additional information must be submitted for review and approval [~~prior to commencement of~~]before starting construction:

(a) acceptable evidence that the water system has a legal right to divert water for the proposed uses from the proposed sources;

(b) minimum quantity that the surface water source [~~is capable of producing (~~]can produce, see Subsection R309-515-5(4)(a[~~) below~~]); and

(c) complete plans and specifications and supporting documentation for the proposed treatment facilities to ascertain compliance with Rules R309-525 or R309-530.

(4) Quantity.

The quantity of water from surface sources shall:

(a) be assumed to be no greater than the low flow of a 25-year recurrence interval or the low flow of record for these sources when 25 years of records are not available;

(b) meet or exceed the anticipated peak day demand for water as estimated in Section R309-510-7 and provide a reasonable surplus for anticipated growth; and[~~,~~]

(c) be [~~adequate~~]enough to compensate for[~~all~~] losses such as silting, evaporation, seepage, and sludge disposal, which would be anticipated in the normal operation of the treatment facility.

(5) Diversion Structures.

Design of intake structures shall provide for:

(a) withdrawal of water from more than one level if quality varies with depth;

(b) intake of the lowest withdrawal elevation located at sufficient depth to be kept submerged at the low water elevation of the reservoir;

(c) separate facilities for release of less desirable water held in storage;

(d) occasional cleaning of the inlet line;

(e) a diversion device capable of keeping large quantities of fish or debris from entering an intake structure; and[~~,~~]

(f) suitable protection of pumps where used to transfer diverted water[~~ (refer to R309-540-5).~~].

(6) Impoundments.

The design of an impoundment reservoir shall provide for, where applicable:

(a) removal of brush and trees to the high water level;

(b) protection from floods during construction;

(c) abandonment of [~~all~~]every well[~~s~~], which may be inundated[~~.(~~], refer to applicable requirements of the Division of Water Rights[~~),~~]; and[~~,~~]

(d) adequate precautions to limit nutrient loads.

R309-515-6. [~~Ground Water~~]Groundwater - Wells.

(1) Required Treatment.

If properly developed, water from wells may be suitable for culinary use without treatment. A determination concerning whether treatment may be required can only be made after the source has been developed and evaluated.

(2) Standby Power.

Water suppliers shall assess the capability of their system in the event of a power outage. If a community water system has no naturally flowing water sources such as springs or flowing wells, one or more of the system's sources shall be equipped for operation during power outages. In this event:

(a) to ensure continuous service when the primary power has been interrupted, a redundant power supply shall be provided. [ ]A redundant power supply may include a transfer switch for auxiliary power such as a generator or a power supply service with coverage from two independent substations.

(b) when automatic pre-lubrication of pump bearings is necessary, and an auxiliary power supply is provided, the pre-lubrication line shall be provided with a valved by-pass around the automatic control, or the automatic control shall be wired to the emergency power source.

(3) The Utah Division of Water Rights.

The Utah Division of Water Rights[~~.(~~], State Engineer's Office[~~)~~], regulates the drilling of water wells. Before the drilling of a well commences, the well driller must receive a start card from the State Engineer's Office. For public drinking water supply wells, [~~the~~]Rule[~~s of~~] R655-4 appl[~~y~~]ies and shall be followed in addition to th[~~ese~~]is rule[~~s~~].

(4) Source Protection.

Public drinking water systems are responsible for protecting their sources from contamination. The selection of a well location shall only be made after consideration of the requirements of Rule R309-600. Sources shall be located in an area that will minimize threats from existing or potential sources of pollution.

[~~Generally, sewer lines may not be located within zone one and zone two of ~~](a) A public [~~drinking~~]water [~~system's~~]system shall not develop a new groundwater source [~~protection zones. However,~~]if existing sewer infrastructure, including sewer lines, sewer laterals, or sewer maintenance holes, exist within the [~~following precautions~~]boundaries of source protection zone one. For purposes of this section, floor drains are [~~taken, sewer lines may be permitted within a public drinking water system's source protection zone one and zone two. Sewer lines shall meet the~~]not considered to be applicable sewer infrastructure.

(b) The Director may approve, as a permit order under Section 19-1-301.5, new groundwater sources if the conditions identified in Subsection R309-600-13(3[~~), and shall be~~]) are met and each applicable sewer infrastructure, carrying wastewater from a building or home to a public sewer or an onsite wastewater system, located within source protection zone one is specially constructed as follows[~~ throughout zone one in aquifers classified as protected, and zones one and two, if the aquifer is classified as unprotected.~~]:

([~~a~~]i) Sewer lines shall be constructed to remain watertight. [~~–~~]The lines shall be deflection-tested in accordance with [~~the Division of Water Quality ~~]Rule R317-3. [-]The lines shall be video-inspected for any defect [~~following~~]after completion of construction and before being placed in service. [-]The sewer pipe material shall be:

([~~i~~]A) high density polyethylene (HDPE) pipe with a PE3408 or PE4710 rating from the Plastic Pipe Institute and have a Standard Dimension Ratio (SDR) of 17 or less, and [~~all joints~~]each joint shall be fusion-welded; or[~~,~~]

([~~ii~~]B) polyvinyl chloride (PVC) pipe meeting AWWA Specification C900 or C905 and have a DR of 18 or less. [-]PVC pipe shall be either restrained gasketed joints or shall be fusion-welded. [ ]Solvent cement joints shall not be acceptable.[-] The PVC pipe shall be clearly identified when installed, by marking tape or other means as a sanitary sewer line; or[~~,~~]

([~~iii~~]C) ductile iron pipe with ceramic epoxy lining, polyethylene encasement, restrained joints, and a minimum pressure class of 200.

([~~b~~]ii) Procedures for leakage tests shall be [~~specified~~]named and comply with [~~Division of Water Quality ~~]Rule R317-3[~~ requirements~~].

([~~c~~]iii) Lateral to [~~main~~]sewer line connection shall be fusion-welded, shop-fabricated, or saddled with a mechanical clamping watertight device designed for the specific pipe.

([~~d~~]iv) Inlet and outlet sewer pipes shall be joined to a [~~manhole~~]maintenance hole with a gasketed flexible watertight connection.

([~~e~~]v) The sewer pipe shall be laid with no greater than 2[~~ percent~~]% deflection at any joint.

([~~f~~]vi) Backfill shall be compacted to not less than 95[~~ percent~~]% of maximum laboratory density as determined in accordance with ASTM Standard D-690.

([~~g~~]vii) Sewer [~~manholes~~]maintenance hole shall meet [~~the following~~]Subsections R309-515-6(4)(b)(vii)(A) through (C) requirements.

([~~i~~]A) The [~~manholes~~]maintenance hole shall be constructed of reinforced concrete, HDPE, or approved equivalent.

[~~(ii) Manhole~~] (B) Maintenance hole base and walls, up to a point at least 12 inches above the top of the upper most sewer pipe entering the [~~manhole~~]maintenance hole, shall be fabricated in a single concrete pour without joints.

([~~iii~~]C) The [~~manholes~~]maintenance hole shall be air pressure tested after installation.

[~~(h) In unprotected aquifers, an impermeable cutoff wall shall be constructed in all sewer trenches on the up-gradient edge of zone two. In protected aquifers, an impermeable cutoff wall shall be constructed in all sewer trenches on the up-gradient edge of zone one.~~]

(5) Outline of Well Approval Process.

(a) Well drilling shall not [~~commence~~]begin until both of the following items are submitted and receive a favorable review:

(i) a Preliminary Evaluation Report on source protection issues as required by Section R309-600-13[~~,~~]; and

(ii) engineering plans and specifications governing the well drilling, prepared by a licensed well driller holding a current Utah Well Drillers License or prepared, signed, and stamped by a licensed professional engineer or professional geologist licensed to practice in Utah.

(b) Inspection of Well Sealing During Construction.

(i) Authorized Individuals

(A) The following individuals are authorized to witness the well sealing procedure for a public drinking water well:

(I) an engineer or a geologist from the Division of Drinking Water;

(II) a district engineer of the Department of Environmental Quality;

(III) an authorized representative of the Division of Water Rights; or[~~,~~]

(IV) an individual having written authorization from the Director and meeting the [~~below listed~~]criteria[~~,~~] in Subsection R309-515-6(5)(b)(ii).

(B) [~~At the time of~~]During the well sealing, an individual, who is authorized per [~~(~~]Subsection R515-6(5)(b)(i)(A)(IV), shall present to the well driller a copy of the authorization letter [~~authorizing him or her~~]to witness a well sealing on behalf of the Division of Drinking Water.[-] A copy of this letter shall be appended to the witness certification letter.

(C) At least three days before the anticipated well sealing, the well driller shall arrange for an authorized witness listed in [~~(~~]Subsection R515-6(5)(b)(i)(A) [~~above~~]to witness the procedure. [~~(~~]See Subsection R309-515-6(6[~~)((i)).~~]).

(ii) Obtaining Authorization

(A) To be authorized per [~~(~~]Subsection R515-6(5)(b)(i)(A)(IV)[~~- above~~] to witness a well sealing procedure, an individual must have no relationship to the driller or the well's owner. The individual must have at least five years professional experience designing wells, supervising well drilling, or other equivalent experience associated with well drilling or well sealing that is acceptable to the Director.

(B) Individuals, desiring the Director's authorization to witness a well sealing procedure, shall provide the following information to the Director for review[~~- over his or her signature~~], signed and attesting to the correctness of the information:

(I) a detailed description of the applicant's experience with well drilling projects, including number of years of experience and type of work. [~~–~~]Three references confirming this professional experience are required.

(II) evidence of licensure as a professional engineer or professional geologist in Utah.

(III) no relationship may exist between a person authorized to witness well sealings and a well driller that would serve as the basis for suspicion of favoritism, leniency, or punitive action in the performance of this task. Examples of such relationships would be family; former long-term employment associations; business partnerships, either formal or informal[~~; etc.~~]. The Director's decision, with right of appeal as provided in Rule R305-7, shall be accepted relative to what constitutes a conflict of interest or a relationship sufficient to disqualify an applicant from [~~all or specific~~]any witness opportunities.

(IV) An acknowledg[~~e~~]ment that [~~he/she~~]the individual would not be acting as an agent or employee of the State of Utah and any losses incurred while acting as a witness would not be covered by governmental immunity or Utah's insurance.

([~~VI~~]V) Willingness to follow established protocols and attend such training events as may be required by the Director.

(VI[~~I~~]) Complete with a minimum 75[~~- percent~~]% passing grade, an examination on water well drilling rules, as offered by the Division of Water Rights.

(C) The Director may rescind the authorization if an individual fails to comply with the criteria or conditions of the authorization[~~- listed above~~].

(iii) Well Seal Certification

The individual witnessing the well sealing procedure shall provide a signed letter, including the following information, to the Director within 30 days of the well sealing:

(A) certification that the well sealing procedure met [~~all the requirements~~]every requirement of [~~Rule~~]Subsection R309-515-6(6)(i);

(B) the water right under which the well was drilled and the well driller's license number;

(C) the public water system name[~~-(~~], if applicable[~~);~~];

(D) the latitude and longitude of the well and method used for its determination;

(E) the well head's approximate elevation;

(F) casing diameter[~~(s),~~], length[~~(s),~~], and material[~~(s);~~];

(G) the size of the annulus between the borehole and casing;

(H) a description of the sealing process including the sealing material used, its volume, density, method of placement, and depth from surface; and[~~,~~]

(I) the names and company affiliations of other individuals observing the sealing procedure including, [~~but not limited to, ~~]the well driller, the well owner, [~~and/~~]or a consultant.

(c) After completion of the well drilling, the following information shall be submitted and receive a favorable review before water from the well can be introduced into a public water system:

(i) a copy of the [~~"~~]Report of Well Driller[~~"~~] as required by the State Engineer's Office which is complete in [~~all aspects~~]every aspect and has been stamped as received by the same;

(ii) a copy of the letter from the authorized individual described in Subsection R309-515-6(5)(b[~~) above,~~]), indicating inspection and confirmation that the well was grouted in accordance with the well drilling specifications and the requirements of this rule;

(iii) a copy of the aquifer drawdown test data, as a minimum, including the yield versus drawdown test data, as described in Subsection R309-515-6(10)(b) along with comments and interpretation by a licensed professional engineer or licensed professional geologist of the graphic drawdown information required by Subsection R309-515-6(10)(b)(vi)(E);

(iv) a copy of the chemical analyses required by Subsection R309-515-4(5);

(v) acceptable evidence that the water system owner has a legal right to divert water for the proposed use[~~(s)~~] from the well source[~~(s);~~];

(vi) a copy of complete plans and specifications prepared, signed, and stamped by a licensed professional engineer covering the well housing, equipment, and diversion piping necessary to introduce water from the well into the distribution system; and

(vii) a bacteriological analysis of water obtained from the well after installation of permanent equipment, disinfection, and flushing.

(d) An Operation Permit shall be obtained in accordance with Section R309-500-9 before any water from the well is introduced into a public water system.

(6) Well Materials, Design, and Construction.

(a) ANSI/NSF Standards 60 and 61 Certification.

[~~All i~~]Interior surfaces must consist of products complying with ANSI/NSF Standard 61. [~~-~~]This requirement applies to drop pipes, well screens, coatings, adhesives, solders, fluxes, pumps, switches, electrical wire, sensors, and [~~all~~]any other equipment or surfaces which may contact the drinking water.

[~~All s~~]Substances introduced into the well during construction or development shall be certified to comply with ANSI/NSF Standard 60. [-]This requirement applies to drilling fluids[~~(~~], including biocides, clay thinners, defoamers, foamers, loss circulation materials, lubricants, oxygen scavengers, viscosifiers, weighting agents,[~~)~~] and regenerants.

(b) Permanent Steel Casing Pipe shall:

(i) be new single steel casing pipe meeting AWWA Standard A-100, ASTM or API specifications and having a minimum weight and thickness as given in Table 6 found in [~~R655-4-11.2.3 of the Utah Administrative Code (Administrative Rules for Water Well Drillers, adopted April 11, 2011, Division of Water Rights),~~]Subsection R655-4-11(11.2.3);

(ii) have additional thickness and weight, if minimum thickness is not considered sufficient to assure reasonable life expectancy of the well;

(iii) be capable of withstanding forces to which it is subjected;

(iv) be equipped with a drive shoe when driven;

(v) have full circumferential welds or threaded coupling joints; and

(vi) project at least 18 inches above the anticipated final ground surface and at least 12 inches above the anticipated pump house floor level. [-]At sites subject to flooding, the top of the well casing shall terminate at least three feet above the 100-year flood level or the highest known flood elevation, whichever is higher.

(c) Non-Ferrous Casing Material.

The use of any non-ferrous material for a well casing shall receive prior approval of the Director based on the ability of the material to perform its desired function. [-]Thermoplastic water well casing pipe shall meet AWWA Standard A100-06 and shall bear the logo NSF-wc indicating compliance with NSF Standard 14 for use as well casing.

(d) Disposal of Cuttings.

Cuttings and waste from well drilling operations shall not be discharged into a waterway, lake, or reservoir. The rules of the Utah Division of Water Quality must be observed with respect to these discharges.

(e) Packers.

Packers, if used, shall be of material that will not impart taste, odor, toxic substances, or bacterial contamination to the well water. Lead or partial lead packers are specifically prohibited.

(f) Screens.

The use of well screens is recommended where appropriate and, if used, they shall:

(i) be constructed of material resistant to damage by chemical action of groundwater or cleaning operations;

(ii) have size of openings based on sieve analysis of formations or gravel pack materials;

(iii) have sufficient diameter to provide adequate specific capacity and low aperture entrance velocities;

(iv) be installed so that the operating water level remains above the screen under [~~all~~]any pumping conditions; and[~~,~~]

(v) be provided with a bottom plate or wash-down bottom fitting of the same material as the screen.

(g) Plumbness and Alignment Requirements.

Every well shall be tested for plumbness and vertical alignment in accordance with AWWA Standard A100. [~~-~~]Plans and specifications submitted for review shall:

(i) have the test method and allowable tolerances clearly stated in the specifications; and[~~,~~]

(ii) clearly [~~indicate~~]state any options the design engineer may have if the well fails to meet the requirements. Generally, wells may be accepted if the misalignment does not interfere with the installation or operation of the pump or uniform placement of grout.

(h) Casing Perforations.

The placement of perforations in the well casing shall:

(i) be located, as far as practical, to permit the uniform collection of water around the circumference of the well casing; and[~~,~~]

(ii) be of dimensions and size to restrain the water bearing soils from entrance into the well.

(i) Well Sealing Techniques and Requirements.

For [~~all~~]each public drinking water well[~~s~~], the annulus between the outermost well casing and the borehole wall shall be sealed with grout to a depth of at least 100 feet below the ground surface unless an ["]exception["] is issued by the Director[~~.(~~], see Subsection R309-500-4(1[~~)).~~]). If more than one casing is used, including a conductor casing, the annulus between the outermost casing and the next inner casing shall be sealed with grout[~~.(~~], meeting the sealing materials requirements of Subsection R309-515-6(i)(ii[~~) herein~~]) or with a water tight steel ring having a thickness equal to that of the permanent well casing and continuously welded to both casings. [-]If a public drinking water well will be equipped with a pitless adapter or unit, a well seal shall be installed to a minimum depth of 110 feet to [~~take into~~]account for the top 10 feet of compromised seal interval.

The following shall apply to [~~all~~]each drinking water well[~~s~~]:

(i) Consideration During Well Construction.

(A) Sufficient annular opening shall be provided to permit a minimum of two inches of grout between the outermost permanent casing and the drilled hole, taking into consideration any joint couplings.

(B) The casing[~~(s)~~] must be placed to permit unobstructed flow and uniform thickness of grout.

(ii) Sealing Materials.

(A) Neat Cement Grout.

Cement, conforming to ASTM Standard C150, and water, with no more than six gallons of water per sack of cement, shall be

used for two-inch openings. [–]Additives may be used to increase fluidity subject to approval by the Director.

(B) Concrete Grout.

Equal parts of cement conforming to ASTM Standard C150, and sand, with no[t] more than six gallons of water per sack of cement, may be used for openings larger than two inches.

(C) Clay Seal.

Where an annular opening greater than six inches is available, a seal of swelling bentonite meeting the requirements of Subsection R655-4-11(11.4.2) may be used when approved by the Director.

(iii) Application.

(A) When the annular opening is less than four inches, grout shall be installed under pressure[, by means of] using a positive displacement grout pump, from the bottom of the annular opening to be filled.

(B) When the annular opening is four or more inches and 100 feet or less in depth, and concrete grout is used, it may be placed by gravity through a grout pipe installed to the bottom of the annular opening in one continuous operation until the annular opening is filled.

(C) [All]Every temporary construction casing[s] shall be removed [prior to]before or during the well sealing operation.[-] Any exceptions shall be approved by the State Engineer's Office, and evidence of State Engineer's Office's approval shall be submitted to the Director. [(s]See Subsection R655-4-11(11.4.3.1) for conditions concerning leaving temporary surface casing in place[).—]. A temporary construction casing is a casing not intended to be part of the permanent well.

(D) When a ["]well in a protected aquifer["] classification is desired, the grout seal shall extend from the ground surface down to at least 100 feet below the surface, and through the protective clay layer[(see]. See Subsection R309-600-6([1)(x)).]23).

(E) After cement grouting is applied, work on the well shall be discontinued until the cement or concrete grout has properly set, usually a period of 72 hours.

(j) Water Entered [I]into Well During Construction.

Any water entering a well during construction shall not be contaminated and should be obtained from a chlorinated municipal system. Where this is not possible, the water must be treated to produce a 100 mg/l free chlorine residual in accordance with Subsection R655-4-11(11.6.5).

(k) Gravel Pack Wells.

The following shall apply to gravel packed wells:

(i) the gravel pack material shall be of well-rounded particles, at least 90[percent]% siliceous material, no more than [five percent]5% acid solubility, smooth and uniform, free of foreign material, properly sized, washed, and then disinfected immediately [prior to]before or during placement;

(ii) the gravel pack shall be placed in one uniform continuous operation;

(iii) refill pipes, when used, shall be Schedule 40 steel pipe incorporated within the pump foundation and terminated with screwed or welded caps at least 12 inches above the pump house floor or concrete apron;

(iv) refill pipes located in the grouted annular opening shall be surrounded by a minimum of 1.5 inches of grout;

(v) protection shall be provided to prevent leakage of grout into the gravel pack or screen; and[,]

(vi) any casings not withdrawn entirely shall meet requirements of Subsection R309-515-6(6)(b) or Subsection R309-515-6(6)(c).

(7) Well Development.

(a) Every well shall be developed to remove the native silts and clays, drilling mud, or finer fraction of the gravel pack.

(b) Development should continue until the maximum specific capacity is obtained from the completed well.

(c) Where chemical conditioning is required, the specifications shall include provisions for the method, equipment, chemicals, testing for residual chemicals, and disposal of waste and inhibitors.

(d) Where blasting procedures may be used, the specifications shall include the provisions for blasting and cleaning. [–]Special attention shall be given to assure that the grouting and casing are not damaged by the blasting.

(8) Capping Requirements.

(a) The well shall be securely capped in accordance with Subsection R655-4-14(14.1) until permanent equipment can be installed.

(b) [At all times]Continually, during the progress of work, the contractor shall provide protection to prevent tampering with the well or entrance of foreign materials.

(9) Well Abandonment.

(a) Test wells and groundwater sources, which will be permanently abandoned shall be abandoned in accordance with Section R655-4-14.

(b) Wells to be abandoned shall be sealed to prevent undesirable exchange of water from one aquifer to another. [ ]Preference shall be given to using a neat cement grout.[-] Where fill materials are used, which are other than cement grout or concrete, they shall be disinfected and free of foreign materials. [–]When an abandoned well is filled with [cement grout]cementgrout or concrete, these materials shall be applied to the well- hole through a pipe, tremie, or bailer.

(10) Well Assessment.

(a) Step Drawdown Test.

Preliminary to the constant-rate test required [below]in Subsection R309-515-6(10)(b), it is recommended that a [step-drawdown]stepdrawdown test[–(], which is uniform increases in pumping rates over uniform time intervals with single drawdown measurements taken at the end of the intervals[)], be conducted to determine the maximum pumping rate for the desired intake setting.

(b) Constant-Rate Test.

A ["]constant-rate["] yield and drawdown test shall:

(i) be performed on every production well after well development and [prior to]before placement of the permanent pump;

(ii) have the test methods clearly indicated in the specifications;

(iii) have a test pump with sufficient capacity that when pumped against the maximum anticipated drawdown, it will be capable of pumping [in excess of]more than the desired design discharge rate;

(iv) provide for continuous pumping for at least 24 hours or until stabilized drawdown has continued for at least six hours when test pumped at a ["]constant-rate["] equal to the desired design discharge rate;

(v) provide the following data:

(A) capacity vs. head characteristics for the test pump[–(], manufacturer's pump curve[);];

(B) static water level[–(], in feet to the nearest tenth, as measured from an identified datum; usually the top of casing[);];

(C) depth of test pump intake; and[,]

(D) time and date of starting and ending test[(s);];

(vi) For the [~~"~~]constant-rate[~~"~~] test, provide the following at time intervals sufficient for at least ten essentially uniform intervals for each log cycle of the graphic evaluation required [~~below:~~]in Subsection R309-515-6(10)(b)(vi)(A) through Subsection R309-515-6(10)(b)(vi)(E):

(A) record the time since starting test [~~(~~]in minutes[~~),~~];

(B) record the [~~actual~~] pumping rate;

(C) record the pumping water level[~~,(~~], in feet to the nearest tenth, as measured from the same datum used for the static water level[~~),~~];

(D) record the drawdown[~~,(~~], which is the pumping water level minus static water level in feet to the nearest tenth[~~),~~];

(E) provide graphic evaluation on semi-logarithmic graph paper by plotting the drawdown measurements on the arithmetic scale at locations corresponding to time since starting test on the logarithmic scale; and[~~,~~]

(vii) Immediately after termination of the constant-rate test, and [~~for a period of time~~]until there are no changes in depth to water level measurements for at least six hours, record the following at time intervals similar to those used during the constant-rate pump test:

(A) time since stopping pump test [~~(~~]in minutes[~~),~~];

(B) depth to water level[~~,(~~], in feet to the nearest tenth, as measured from the same datum used for the pumping water level[~~),~~].

(c) Safe Yield.

If the aquifer drawdown test data show that the drawdown has stabilized, the Director will consider 2/3 of the pumping rate used in the constant-rate test as the safe yield of the well. [~~-~~]The safe yield is used to determine the number of permanent residential connections or ERCs that a well source can support.

(11) Well Disinfection.

Every new, modified, or reconditioned well including pumping equipment shall be disinfected before being placed into service for drinking water use. [~~-~~]These shall be disinfected according to AWWA Standards C654-03 and A100-06 as modified to incorporate the following as a minimum standard:

[~~(i)~~](a) the well shall be disinfected with a chlorine solution of sufficient volume and strength and so applied that a concentration of at least 50 parts per million is obtained in [~~all parts~~]every part of the well and the equipment installed in the well.[~~-~~] This solution shall remain in the well for a period of at least eight hours; and[~~,~~]

[~~(ii)~~](b) a satisfactory bacteriologic water sample analysis shall be obtained[~~ prior to~~] the use of water from the well in a public water system.

(12) Well Equipping.

(a) Naturally Flowing Wells.

Naturally flowing wells shall:

(i) have the discharge controlled by valves;

(ii) be provided with permanent casing and sealed by grout; and[~~,~~]

(iii) if erosion of the confining bed adjacent to the well appears likely, special protective construction may be required by the Director.

(b) Well Pumps.

(i) The design discharge rate of the well pump shall not exceed the rate used during the constant-rate aquifer drawdown test.

(ii) Wells equipped with line shaft pumps shall:

(A) have the casing firmly connected to the pump structure or have the casing inserted into the recess extending at least 0.5 inches into the pump base;

(B) have the pump foundation and base designed to prevent fluids from coming into contact with joints between the pump base and the casing;

(C) be designed such that the intake of the well pump is at least ten feet below the maximum anticipated drawdown elevation; and[~~,~~]

(D) avoid the use of oil lubrication for pumps with intake screens set at depths less than 400 feet[~~ (see~~]. See Subsection R309-105-10(7) and[~~/or~~] R309-515-8(2) for additional requirements of lubricants).

(iii) Where a submersible pump is used:

(A) the top of the casing shall be effectively sealed against the entrance of water under [~~all conditions~~]any condition of vibration or movement of conductors or cables;

(B) the electrical cable shall be firmly attached to the riser pipe at 20-foot intervals or less; and[~~,~~]

(C) the intake of the well pump must be at least ten feet below the maximum anticipated drawdown elevation.

(c) Pitless Well Units and Adapters.

If the excavation surrounding the well casing allowing installation of the pitless unit compromises the surface seal, the competency of the surface seal shall be restored. [~~-~~]Torch-cut holes in the well casing shall be [~~to~~]neat lines closely following the outline of the pitless adapter and [~~completely~~]entirely filled with a competent weld with burrs and fins removed [~~prior to~~]before the installation of the pitless unit and adapter.

Pitless well units and adapters shall:

(i) be used to make a connection to a water well casing that is made below the ground. [~~-~~]A below-the-ground connection shall not be submerged in water during installation;

(ii) terminate at least 18 inches above final ground elevation or three feet above the highest known flood elevation, whichever is greater;

(iii) contain a label or have a certification indicating compliance with the Water Systems Council Pitless Adapter Standard (PAS-97);

(iv) have suitable access to the interior of the casing [~~in order~~]to disinfect the well;

(v) have a suitable sanitary seal or cover at the upper terminal of the casing that will prevent the entrance of any fluids or contamination, especially at the connection point of the electrical cables;

(vi) have suitable access so that measurements of static and pumped water levels in the well can be obtained;

(vii) allow at least one check valve within the well casing;

(viii) be furnished with a cover that is lockable or otherwise protected against vandalism or sabotage;

(ix) be shop-fabricated from the point of connection with the well casing to the unit cap or cover;

(x) be of watertight construction throughout;

(xi) be constructed of materials at least equivalent to and having wall thickness compatible to the casing;

(xii) have field connection to the lateral discharge from the pitless unit of threaded, flanged, or mechanical joint connection;

(xiii) be threaded or welded to the well casing. [~~-~~]If the connection to the casing is by field weld, the shop-assembled unit must be designed specifically for field welding to the casing. [~~-~~]The only field welding permitted on the pitless unit is to connect the pitless unit to the casing; and[~~,~~]

(xiv) have an inside diameter as great as that of the well casing, up to and including casing diameters of 12 inches, to facilitate work and repair on the well, pump, or well screen.

(d) Well Discharge Piping.

The discharge piping shall:

(i) be designed so that the friction loss will be low;

(ii) have control valves and appurtenances located above the pump house floor when an [~~above-ground~~]aboveground discharge is provided;

(iii) be protected against the entrance of contamination;

(iv) be equipped with a smooth-nosed sampling tap, a check valve, a pressure gauge, a means of measuring flow, and a [~~shutoff~~]shut-off valve. [~~(w~~]With the smooth-nosed sampling tap being the first item from the well head and the shut-off valve as the last item[~~),~~], unless it is a naturally flowing well which may need an alternative design;

(v) where a well pumps directly into a distribution system, be equipped with an air release vacuum relief valve located upstream from the check valve, with exhaust[~~/~~] or relief piping terminating in a down-turned position at least six inches above the well house floor and covered with a No. 14 mesh corrosion resistant screen. [-]An air release vacuum relief valve is not required if the specific proposed well head valve and piping design includes provisions for pumping to waste [~~all~~]the entirety of trapped air before water is introduced into the distribution system;

(vi) have [~~all~~]every exposed piping valve[~~s~~] and appurtenance[~~s~~] protected against physical damage and freezing;

(vii) be properly anchored to prevent movement;

(viii) be properly protected against surge or water hammer; and[~~,~~]

(ix) if a pump[~~-~~]-to[~~-~~]-waste line exists, it shall not be connected to a sewer[~~/~~] or storm drain without a minimum 12-inch clearance to the flood rim, and the discharge end of the pump-to-waste line shall be [~~downturned~~]down-turned and covered with a No. 4 mesh corrosion resistant screen[~~-(~~], refer to Subsection R309-545-10(1[~~)).~~]).

(e) Water Level Measurement.

(i) Provisions shall be made to permit periodic measurement of water levels in the completed well.

(ii) Where permanent water level measuring equipment is installed, it shall be made using corrosion resistant materials attached firmly to the drop pipe or pump column and installed to prevent entrance of foreign materials.

(f) Observation Wells.

Observation wells shall be:

(i) constructed in accordance with the requirements for permanent wells if they are to remain in service after completion of a water supply well; and[~~,~~]

(ii) protected at the upper terminal to preclude entrance of foreign materials.

(g) Electrical Protection.

Sufficient electrical controls shall be placed on [~~all~~]every pump motor[~~s~~] to eliminate electrical problems due to phase shifts, surges, or lightning[~~, etc~~].

(13) Well House Construction.

The use of a well house is strongly recommended, particularly in installations utilizing above ground motors.

[~~In addition to applicable provisions of R309-540, well~~]Well pump houses shall conform to the following:

(a) Casing Projection Above Floor.

The permanent casing for [~~all~~]any [~~ground water~~]groundwater well[~~s~~] shall project at least 12 inches above the pump house floor or concrete apron surface and at least 18 inches above the final ground surface. However, casings terminated in underground vaults may be permitted if the vault is provided with a ["]drain-to-daylight["] sized to handle [~~in excess of~~]more than the well flow and surface runoff and is directed away from the vault access.

(b) Floor Drain.

Where a well house is constructed, the floor surface shall be at least six inches above the final ground elevation and shall be sloped to provide drainage. [~~–~~]A ["]drain-to-daylight["] shall be provided unless highly impractical.

(c) Earth Berm.

Sites subject to flooding shall be provided with an earth berm terminating at an elevation at least two feet above the highest known flood elevation or other suitable protection as determined by the Director.

(d) Well Casing Termination at Flood Sites.

The top of the well casing at sites subject to flooding shall terminate at least three feet above the 100-year flood level or the highest known flood elevation, whichever is higher[~~-(~~], refer to Subsection R309-515-6(6)(b)(vi[~~)).~~]).

(e) Miscellaneous.

The well house shall be ventilated, heated, and lighted in such a manner as to assure adequate oper[~~o~~]at[~~ect~~]ion of the equipment[~~-(refer to R309-540-5(2)(a) through (h)).~~].

(f) Fencing.

Where necessary to protect the quality of the well water, the Director may require that certain wells be fenced in a manner similar to fencing required around spring areas.

(g) Access.

An access shall be provided either through the well house roof or sidewalls in the event the pump must be pulled for replacement or servicing the well.

R309-515-7. [~~Ground Water~~]Groundwater - Springs.

(1) General.

Springs vary greatly in their characteristics and they should be observed for some time [~~prior to~~]before development to determine any flow and quality variations.[-] Springs determined to be under the direct influence of surface water shall comply with surface water treatment requirements.

(2) Source Protection.

Public drinking water systems are responsible for protecting their spring sources from contamination. [-]The selection of a spring shall only be made after consideration of the requirements of Section R309-515-4.[-] Springs must be located in an area that shall minimize threats from existing or potential sources of pollution. [–]A Preliminary Evaluation Report on source protection issues is required by Subsection R309-600-13(2).[-] If certain precautions are taken, sewer lines may be permitted within a public drinking water system's source protection zones at the discretion of the Director. [ ]When sewer lines are permitted in protection zones both sewer lines and [~~manholes~~]maintenance holes shall be specially constructed as described in Subsection R309-515-6(4).

(3) Surface Water Influence.

Some springs yield water that has been filtered underground for years; other springs yield water that has been filtered underground only a matter of hours. [—]Even with proper development, the untreated water from certain springs may exhibit turbidity and high coliform counts. [-]This indicates that the spring water is not being sufficiently filtered in underground travel.[-] If a spring is determined to be under the direct influence of surface water,

it shall be treated to meet the surface water treatment requirements specified in Section R309-505-6.

(4) Pre-construction Submittal

Before beginning spring development construction, the following information shall be submitted to the Director and approved in writing:

(a) detailed plans and specifications covering the development work;

(b) if available, a copy of an engineer's or geologist's statement indicating:

(i) the historical record of spring flow variation;

(ii) expected minimum flow and the time of year it will occur;

(iii) expected maximum flow and the time of year it will occur;

(iv) expected average flow; and[~~,~~]

(v) the behavior of the spring during drought conditions;

(c) acceptable evidence that the water system has a legal right to divert water for the proposed use[~~(s)~~] from the spring source[~~(s);~~];

(d) a Preliminary Evaluation Report on source protection issues as required by Section R309-600-13;

(e) a copy of the chemical analyses required by Subsection R309-515-4(5[~~),~~]); and[~~,~~]

(f) an assessment of whether the spring is under the direct influence of surface water[~~(~~], refer to Subsection R309-505-7(1)(a[~~)).~~]).

(5) Information Required after Spring Development.

After development of a spring as a drinking water source, the following information shall be submitted to the Director for review.

(a) proof of satisfactory bacteriologic quality;

(b) information on the rate of flow developed from the spring.

Immediately after spring development, the water system shall collect monthly spring flow data during operating seasons when the spring is reasonably accessible, as a minimum, for three years, and submit spring flow data to the Director for determination of spring yield. [~~—~~]After evaluating the spring flow information including seasonal and annual variations, the Director will determine a spring yield, which will be used in assessing the number of and type of connections that can be served by the spring. [~~-~~]The spring yield typically is set at the 25th percentile of the spring flow data.[~~-~~] If the spring exhibits significant seasonal or annual variations, the spring yield may be assessed on a case-by-case basis.

(c) Record drawings of spring development.

(6) Operating Permit Required.

Water from the spring can be introduced into a public water system only after it has been approved for use, in writing, as evidenced by the issuance of an Operating Permit by the Director[~~-(~~], see Section R309-500-9[~~).~~].

(7) Spring Development.

The development of springs for drinking water purposes shall comply with the following requirements.

(a) The spring collection device, whether it be collection tile, perforated pipe, imported gravel, infiltration boxes, or tunnels must be covered with a minimum of 10 feet of relatively impervious soil cover. [~~-~~]Such cover must extend a minimum of 15 feet in all horizontal directions from the spring collection device. [~~–~~]Clean, inert, non-organic material shall be placed in the vicinity of the collection device[~~(s).~~].

(b) Where it is impossible to achieve the 10 feet of relatively impervious soil cover, an acceptable alternate will be the use of an impermeable liner provided that:

(i) the liner has a minimum thickness of at least 40 mils;

(ii) [~~all seams~~]each seam in the liner [~~are~~]is folded or welded to prevent leakage;

(iii) the liner is certified as complying with ANSI/NSF Standard 61. [~~-~~]This requirement is waived if certain that the drinking water will not contact the liner;

(iv) the liner is installed in such a manner as to assure its integrity. [~~-~~]No stones, two inches or larger, or sharp edged, shall be located within two inches of the liner;

(v) a minimum of two feet of relatively impervious soil cover is placed over the impermeable liner; and[~~,~~]

(vi) the soil and liner cover are extended a minimum of 15 feet in [~~all~~]every horizontal direction[~~s~~] from the collection devices.

(c) Each spring collection area shall be provided with at least one collection box to permit spring inspection and testing.

(d) [~~All~~]Each junction box[~~es~~] and collection box[~~es,~~] must comply with Rule R309-545 with respect to access openings, venting, and tank overflow.[~~-~~] Lids for these spring boxes shall be gasketed and the box adequately vented.

(e) The spring collection area shall be surrounded by a fence located a distance of 50 feet[~~—(~~], preferably 100 feet if conditions allow[~~),~~], from [~~all~~]each collection device[~~s~~] on land at an elevation equal to or higher than the collection device, and a distance of 15 feet from [~~all~~]each collection device[~~s~~] on land at an elevation lower than the collection device. [~~-~~]The elevation datum to be used is the surface elevation at the point of collection. [~~-~~]The fence shall be at least [~~"~~]stock tight[~~" -(~~], see Rule R309-110[~~),—~~]. In remote areas where no grazing or public access is possible, an exception to the fencing requirement may be granted by the Director. [~~-~~]In populated areas, a six-foot high chain link fence with three strands of barbed wire may be required.

(f) Within the fenced area any[~~ll~~] vegetation having deep roots shall be removed by a means not negatively affecting water quality.

(g) A diversion channel, or berm, capable of diverting [~~all~~]the entirety of anticipated surface water runoff away from the spring collection area shall be constructed immediately inside the fenced area.

(h) A permanent flow-measuring device shall be installed. [~~-~~]Flow measurement devices such as critical depth meters or weirs shall be properly housed and otherwise protected.

(i) The spring shall be developed as thoroughly as possible to minimize the possibility of excess spring water ponding within the collection area. [~~-~~]Where the ponding of spring water is unavoidable, the excess shall be collected by shallow piping or french drain, and be routed beyond and down grade of the fenced area[~~ -required above~~], whether or not a fence is in place.

R309-515-8. Operation and Maintenance.

(1) Spring Collection Area Maintenance.

(a) Spring collection areas shall be periodically[~~—(~~], preferably annually[~~),~~], cleared of deep-rooted vegetation to prevent root growth from clogging collection lines.[~~–~~] Frequent hand or mechanical clearing of spring collection areas and diversion channel is strongly recommended. [~~–~~]It is advantageous to encourage the growth of grasses and other shallow rooted vegetation for erosion control and to inhibit the growth of more detrimental flora.

(b) No pesticide [~~(e.g.,~~]or herbicide[~~)~~] may be applied on a spring collection area without the prior written approval of the Director.[-] Such approval can be granted only when:

(i) acceptable pesticides are proposed

(ii) the pesticide product manufacturer certifies that no harmful substance will be imparted to the water and[~~,~~]

(iii) spring development construction meets the requirements of [~~these r~~]Rules R309-500 through R309-550.

(2) Pump Lubricants.

The [~~U.S.~~]US Food and Drug Administration (FDA) has approved propylene glycol and certain types of mineral oil for occasional contact with or for addition to food products. [-]These oils are commonly referred to as ["]food-grade mineral oils[~~". All oil~~]. Oil lubricated pumps shall utilize food[-]-grade mineral oil suitable for human consumption as determined by the Director.

(3) Algicide Treatment.

No algicide shall be applied to a drinking water source unless specific approval is obtained from the Director. Such approval will be given only if the algicide is certified as meeting the requirements of ANSI/NSF Standard 60, Water Treatment Chemicals - Health Effects.

KEY: drinking water, source development, source maintenance
Date of Last Change: 2024[~~January 21, 2014~~]
Notice of Continuation: March 12, 2020
Authorizing, and Implemented or Interpreted Law: 19-4-104

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal and Reenact		
Rule or Section Number:	**R309-540**	**Filing ID: 56379**

Agency Information

1. Department:	Environmental Quality	
Agency:	Drinking Water	
Building:	Multi-Agency State Office Building	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144830	
City, state and zip:	Salt Lake City, UT 84114-4830	
Contact persons:		
Name:	**Phone:**	**Email:**
Michael Newberry	385-515-1464	mnewberry@utah.gov
Russell Seeley	435-650-8519	rseeley@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R309-540. Facility Design and Operation: Pump Stations

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

The Division of Drinking Water (Division) is repealing the current rule and reenacting a new rule in its place to make the same requirements for the design and construction of pump facilities clearer and easier to follow for public water suppliers.

After an internal review, staff recommended updating this rule because it is unclear and out of date.

Staff interactions with regulated water systems have identified several inconsistencies in this rule. The majority of regulated water systems are in compliance with the current rule and are therefore in compliance with the revised and updated rule.

The Division is proposing to repeal the current rule and enact a new rule in its place because a conventional marked-up version of the proposed changes would be difficult to follow.

4. Summary of the new rule or change:

The Division has deleted unnecessary requirements found in the current rule and substantially rearranged the remaining requirements.

The revised rule has the same requirements as the original but is more clear, concise, and easier to understand.

Nonsubstantive changes were also made to style and formatting to conform with the Rulewriting Manual for Utah.

Fiscal Information

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

A) State budget:

The water systems that are regulated by the Division are in compliance with the current rule and are therefore in compliance with the revised and updated rule. Because the systems are already in compliance, the proposed rule is anticipated to have no aggregate costs or savings to the state budget.

In the future, when staff review new projects and plans against the revised rule, no additional time or resources will be needed from the budget because requirements of the revised rules are the same as the original and therefore, there will be no effect on the state budget.

B) Local governments:

This rule only affects those local governments that own and operate their own water system.

Staff has reviewed all of the currently regulated local government water systems and has found that the water systems are currently in compliance with the existing rule.

The proposed rule makes the same requirements for the design and construction of pump facilities clearer and easier to follow for public water suppliers including local governments.

Because the systems are already in compliance, the proposed rule is anticipated to have no aggregate costs or savings.

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

This rule only affects those small businesses that own and operate their own water system.

Staff has reviewed all of the currently regulated small business water systems and has found that the water systems are currently in compliance with the existing rule.

The proposed rule makes the same requirements for the design and construction of pump facilities clearer and easier to follow for public water suppliers including small businesses.

Because the systems are already in compliance, the proposed rule is anticipated to have no aggregate costs or savings.

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

This rule only affects those non-small businesses that own and operate their own water system.

Staff has reviewed all of the currently regulated non-small business water systems and has found that the water systems are currently in compliance with the existing rule.

The proposed rule makes the same requirements for the design and construction of pump facilities clearer and easier to follow for public water suppliers including non-small businesses.

Because the systems are already in compliance, the proposed rule is anticipated to have no aggregate costs or savings.

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 Division does not regulate individuals or private water systems and therefore, this rule change does not have any application.

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

There are no anticipated compliance costs for any affected entity or person.

This amendment only clarifies and updates the existing rule with no added requirements or restrictions, and as all systems are in compliance, no fiscal impact is anticipated.

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 Environmental Quality, Kimberly Shelley, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Subsection 19-4-104(1)(a)(ii)	Subsection 63G-3-403(3)	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024
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:	Nathan Lunstad, PE, Division Director	**Date:**	03/14/2024

R309. Environmental Quality, Drinking Water.

[~~R309-540. Facility Design and Operation: Pump Stations.~~

~~R309-540-1. Purpose.~~

~~The purpose of this rule is to provide specific requirements for pump stations utilized to deliver drinking water to facilities of public water systems. It is intended to be applied in conjunction with rules R309-500 through R309-550. Collectively, these rules govern the design, construction, operation and maintenance of public drinking water system facilities. These rules are intended to assure that such facilities are reliably capable of supplying adequate quantities of water which consistently meet applicable drinking water quality requirements and do not pose a threat to general public health.~~

~~R309-540-2. Authority.~~

~~This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code and in accordance with 63G-3 of the same, known as the Administrative Rulemaking Act.~~

~~R309-540-3. Definitions.~~

~~Definitions for certain terms used in this rule are given in R309-110 but may be further clarified herein.~~

~~R309-540-4. General.~~

~~Pumping stations shall be designed to maintain the sanitary quality of water and to provide ample quantities of water at sufficient pressure.~~

~~R309-540-5. Pumping Facilities.~~

~~(1) Location.~~

~~(a) The pumping station shall be designed such that:~~

~~(i) the proposed site will meet the requirements for sanitary protection of water quality, hydraulics of the system, and protection against interruption of service by fire, flood or any other hazard;~~

~~(ii) the access to the pump station shall be six inches above the surrounding ground and the station located at an elevation which is a minimum of three feet above the 100-year flood elevation, or three feet above the highest recorded flood elevation, which ever is higher, or protected to such elevations;~~

~~(iii) the station is readily accessible at all times unless permitted to be out of service for the period of inaccessibility;~~

~~(iv) surrounding ground is graded so as to lead surface drainage away from the station; and~~

~~(v) the station is protected to prevent vandalism and entrance by animals or unauthorized persons.~~

~~(2) Pumping Stations.~~

~~(a) Building structures for both raw and drinking water shall:~~

~~(i) have adequate space for the installation of additional pumping units if needed, and for the safe servicing of all equipment;~~

~~(ii) be of durable construction, fire and weather resistant, with outward-opening doors;~~

~~(iii) have an interior floor elevation at least six inches above the exterior finished grade;~~

~~(iv) have any underground facilities, especially wet wells, waterproofed;~~

~~(v) have all interior floors drained in such a manner that the quality of drinking water contained in any wet wells will not be endangered. All floors shall slope at least one percent (one foot every 100 feet) to a suitable drain; and~~

~~(vi) provide a suitable outlet for drainage from pump glands without discharging onto the floor.~~

~~(b) Suction wells shall:~~

~~(i) be watertight;~~

~~(ii) have floors sloped to permit removal of water and entrained solids;~~

~~(iii) be covered or otherwise protected against contamination; and~~

~~(iv) have two pumping compartments or other means to allow the suction well to be taken out of service for inspection, maintenance, or repair.~~

~~(c) Servicing equipment shall consist of:~~

~~(i) crane ways, hoist beams, eyebolts, or other adequate facilities for servicing or removal of pumps, motors or other heavy equipment;~~

~~(ii) openings in floors, roofs or wherever else needed for removal of heavy or bulky equipment; and~~

~~(iii) a convenient tool board, or other facilities as needed, for proper maintenance of the equipment.~~

~~(d) Stairways and ladders shall:~~

~~(i) be provided between all floors, and in pits or compartments which must be entered; and~~

~~(ii) have handrails on both sides, and treads of non-slip material. They shall have risers not exceeding nine inches and treads wide enough for safety.~~

~~(e) Heating provisions shall be adequate for:~~

~~(i) the comfort of the operator; and~~

~~(ii) the safe and efficient operation of the equipment.~~

~~(f) Ventilation shall:~~

~~(i) conform to existing local and/or state codes; and~~

~~(ii) forced ventilation of at least six changes of air per hour shall be provided for all rooms, compartments, pits and other~~

~~enclosures below ground floor, and any area where unsafe atmosphere may develop or where excessive heat may be built up.~~

~~(g) Lighting.~~

~~Pump stations shall be adequately lighted throughout. All electrical work shall conform to the requirements of the relevant state and/or local building codes.~~

~~(h) Sanitary and other conveniences.~~

~~Plumbing shall be so installed as to prevent contamination of a public water supply. Wastes shall be discharged in accordance with the plumbing code, R317-4, or R317-1-3.~~

~~(3) Pumps.~~

~~(a) Capacity.~~

~~Capacity shall be provided such that the pump or pumps shall be capable of providing the peak day demand of the system or the specific portion of the system serviced.~~

~~The pumping units shall:~~

~~(i) have ample capacity to supply the peak day demand against the required distribution system pressure without dangerous overloading;~~

~~(ii) be driven by prime movers able to meet the maximum horsepower condition of the pumps without use of service factors;~~

~~(iii) be provided readily available spare parts and tools; and~~

~~(iv) be served by control equipment that has proper heater and overload protection for air temperature encountered.~~

~~(b) Suction Lift.~~

~~Suction lift, where possible, shall be avoided. If suction lift is necessary, the required lift shall be within the pump manufacturer's recommended limits and provision shall be made for priming the pumps.~~

~~(c) Priming.~~

~~Prime water shall not be of lesser sanitary quality than that of the water being pumped. Means shall be provided to prevent back siphonage. When an air-operated ejector is used, the screened intake shall draw clean air from a point at least 10 feet above the ground or other source.~~

~~(4) Booster Pumps.~~

~~(a) Booster pumps shall be located or controlled so that:~~

~~(i) they will not produce negative pressure in their suction lines;~~

~~(ii) automatic cutoff pressure shall be at least 10 psi in the suction line;~~

~~(iii) automatic or remote control devices shall have a range between the start and cutoff pressure which will prevent excessive cycling; and~~

~~(iv) a bypass is available.~~

~~(b) Inline booster pumps (pumps withdrawing water directly from distribution lines without the benefit of storage and feeding such water directly into other distribution lines rather than storage), in addition to the other requirements of this section, shall have at least two pumping units (such that with any one pump out of service, the remaining pump or pumps shall be capable of providing the peak day demand of the specific portion of the system serviced), shall be accessible for servicing and repair and located or controlled so that the intake pressure shall be at least 20 psi when the pump or pumps are in normal operation.~~

~~(c) Individual home booster pumps shall not be allowed for any individual service from the public water supply main.~~

~~(5) Automatic and remote controlled stations.~~

~~All remote controlled stations shall be electrically operated and controlled and shall have signaling apparatus of proven performance. Installation of electrical equipment shall conform with the applicable state and local electrical codes and the National Electrical Code.~~

~~(6) Appurtenances.~~

~~(a) Valves.~~

~~Valves shall be used to permit satisfactory operation, maintenance, and repair of the equipment. If foot valves are necessary, they shall have a net valve area of at least 2 1/2 times the area of the suction pipe and they shall have a positive-acting check valve on the discharge side between the pump and the shut-off valve.~~

~~(b) Piping.~~

~~Piping within and near pumping stations shall:~~

~~(i) be designed so that the friction losses will be minimized;~~

~~(ii) not be subject to contamination;~~

~~(iii) have watertight joints;~~

~~(iv) be protected against surge or water hammer; and~~

~~(v) be such that each pump has an individual suction line or that the lines shall be so manifolded that they will insure similar hydraulic and operating conditions.~~

~~(c) Gauges and Meters.~~

~~Each pump shall:~~

~~(i) have a standard pressure gauge on its discharge line;~~

~~(ii) have a compound gauge (capable of indicating negative pressure or vacuum as well as positive pressure) on its suction line; and~~

~~(iii) have recording gauges in the larger stations.~~

~~(d) Water Seal.~~

~~Where pumps utilize water seals, the seals shall:~~

~~(i) not be supplied with water of a lesser sanitary quality than that of the water being pumped; and~~

~~(ii) when pumps are sealed with potable water and are pumping water of lesser sanitary quality, the seal shall be provided with a break tank open to atmospheric pressure, and have an air gap of at least six inches or two pipe diameters, whichever is greater, between the feeder line and the spill line of the tank.~~

~~(e) Controls.~~

~~Controls shall be designed in such a manner that they will operate their prime movers, and accessories, at the rated capacity without dangerous overload. Where two or more pumps are installed, provision shall be made for alternation. Provision shall be made to prevent energizing the motor in the event of a backspin cycle. Electrical controls shall be protected against flooding. Equipment shall be provided or other arrangements made to prevent surge pressures from activating controls which switch on pumps or activate other equipment outside the normal design cycle of operation.~~

~~(f) Standby Power.~~

~~Standby power, to ensure continuous service when the primary power has been interrupted, shall be provided from at least two independent sources or a standby or an auxiliary source shall be provided. If standby power is provided by onsite generators or engines, the fuel storage and fuel line must be designed to protect the water supply from contamination.~~

~~(g) Water Pre-Lubrication.~~

~~When automatic pre-lubrication of pump bearings is necessary and an auxiliary direct drive power supply is provided, the pre-lubrication line shall be provided with a valved bypass around the automatic control so that the bearings can, if necessary, be lubricated manually before the pump is started or the pre-lubrication controls shall be wired to the auxiliary power supply.~~

~~**R309-540-6. Hydropneumatic Systems.**~~

~~(1) General.~~

~~Hydropneumatic systems shall comply with all appropriate sections of R309-540-5 except as otherwise indicated herein.~~

~~Unpressurized ground level or elevated storage, designed in accordance with R309-545, shall be provided for community type public water systems or non-transient non-community systems where a demand in excess of the capacity of the source(s) is required, in addition to the diaphragm or air tanks. Diaphragm or air pressure tank storage shall not be considered for fire protection purposes or effective system storage for community type systems.~~

~~(2) Location.~~

~~If diaphragm or air tanks and appurtenances are located below ground, adequate provisions for drainage, ventilation, maintenance, and flood protection shall be made and the electrical controls shall be located above grade so as to be protected from flooding as required by R309-540-5(6)(e). Any discharge piping from combination air release/vacuum relief valves(air/vac's) or pressure relief valves located in below ground chambers shall comply with all the pertinent requirements of R309-550-6(6).~~

~~(3) Operating Pressures.~~

~~The system shall be designed to provide minimum pressures in R309-105-9 at all points in the distribution system. A pressure gauge shall be installed on the pressure tank inlet line.~~

~~(4) Piping.~~

~~In addition to the bypass required by R309-540-5(4)(iv) on the pumps, the diaphragm or air tanks shall have sufficient bypass piping to permit operation of the hydropneumatic system while one or more of the tanks are being repaired, replaced or painted.~~

~~(5) Pumps.~~

~~At least two pumping units shall be provided except for those type systems not requiring unpressurized storage in R309-540-6(1); they may use the pump within their groundwater source to pressurize the diaphragm or air tanks. With any pump out of service the remaining pump or pumps shall be capable of providing the peak instantaneous demand of the system as described in R309-510-9(2), while recharging the pressure tank at 115 percent of the upper pressure setting. Pump cycling shall not exceed 15 starts per hour, with a maximum of ten starts per hour preferred.~~

~~(6) Pressure Tanks.~~

~~(a) Pressure tanks shall meet the requirement of state and local laws and regulations for the manufacture and installation of unfired pressure vessels. Interior coatings or diaphragms used in pressure tanks that will come into contact with the drinking water shall comply with ANSI/NSF Standard 61. Non diaphragm pressure tanks shall have an access manhole, a drain, control equipment consisting of pressure gauge, water sight glass, automatic or manual air blow off, means for adding air, and pressure operated start-stop controls for the pumps.~~

~~(b) The minimum volume of the pressure tank or combination of tanks shall be greater than or equal to the sum of S and the value of CX divided by 4W.~~

~~where the following values are used in the equation above:~~

~~C = minutes per operating cycle, four minutes to meet the requirements of R309-540-6(5) above or preferably six minutes, and is equal to pump ON time plus pump OFF time.~~

~~X = output capacity rating of the pump(s) at the high pressure condition in the tank(s), in gpm.~~

~~W = percent of volume withdrawn during a given drop in tank pressure: specifically, between P_h and P_l. $W = 100(P_h - P_l)/P_h$ where P_h = high pressure in tank in psia (high absolute pressure) and P_l = low pressure in tank is psia (low absolute pressure). Values of W range typically from 0.26 to 0.31 for pressure differentials of 15 to 30 psi and high system pressures of 45 to 85 psi at elevations of approximately 5,000 feet.~~

~~S = water seal volume in gallons, the volume of inactive water remaining in tank at low pressure condition.~~

~~(7) Air Volume.~~

~~The method of adjusting the air volume shall be acceptable to the Director. Air delivered by compressors to the pressure tank shall be adequately filtered, oil free, and be of adequate volume. Any intake shall be screened and draw clean air from a point at least 10 feet above the ground or other source of possible contamination, unless the air is filtered by an apparatus approved by the Director. Discharge piping from air relief valves shall be designed and installed with screens to eliminate the possibility of contamination from this source.~~

~~(8) Water Seal.~~

~~For air pressure tanks without an internal diaphragm the volume of water remaining in a air pressure tank at the lower pressure setting shall be sufficient to provide an adequate water seal at the outlet to prevent the leakage of air.~~

~~The following water seal depths shall be considered as minimum requirements.~~

~~(a) Horizontal outlets shall maintain sufficient depth, as measured from the centerline of the horizontal outlet pipe, such that the depth is greater than or equal to the sum of d and twice the value v^2 divided by 2G.~~

~~(b) Vertical outlets, if unbaffled, the depth shall be the same as in (a) except measured from the pipe outlet; if baffled, the depth shall be greater than or equal to the value v^2 divided by 2G.~~

~~where the following values are used in the equations above:~~

~~v = the axial velocity in the pipe outlet for the peak instantaneous demand flow rate of the system.~~

~~d = the diameter of the outlet pipe in ft.~~

~~G = the gravitational constant of 32.2 ft/sec/sec.~~

~~(9) Standby Power Supply.~~

~~Where a hydropneumatic system is intended to serve a public water system, categorized as a community water system as defined in R309-110, a standby source of power shall be provided.~~]

R309-540. Facility Design and Operation: Pump and Hydropneumatic Pressure Facilities.

R309-540-1. Purpose.

The purpose of this rule is to provide specific requirements for pump stations utilized to deliver drinking water to facilities of public water systems. It is intended to be applied in conjunction with Rules R309-500 through R309-550. Collectively, these rules govern the design, construction, operation, and maintenance of public drinking water system facilities. These rules are intended to assure that facilities are reliably capable of supplying quantities of water which consistently meet applicable drinking water quality requirements of Rules R309-200 and R309-510 and do not pose a threat to general public health.

R309-540-2. Authority.

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii), and in accordance with Title 63G, Chapter 3 Utah Administrative Rulemaking Act.

R309-540-3. Definitions.

Definitions for certain terms used in this rule are given in Rule R309-110. Terms not defined in Rule R309-100 but used in Rule

R309-540 include those defined in Subsections R309-540-3(1) through (8).

(1) "Air-Over-Water Hydropneumatic Tank" means a pressure tank with a single chamber in which air and water are in direct contact. Water pumped into the tank compresses the air above it.

(2) "Bladder Hydropneumatic Tank" means a pressure tank that has a bladder in the bottom section of the tank that holds water under pressure. Water pumped into the bladder compresses the air in the upper section of the tank.

(3) "Booster Pump" means a pump that increases pressure in a water distribution system or supplies water to an elevated storage tank. The water supplying a booster pump is provided by a water storage tank or a water distribution line.

(4) "Diaphragm Hydropneumatic Tank" means a pressure tank with a fixed, flexible diaphragm that separates water in the lower section of the tank from air in the upper section. Water pumped into the lower section compresses the air in the upper section of the tank.

(5) "NSF/ANSI 60" - the joint National Sanitation Foundation/American National Standards Institute 60, Drinking Water Treatment Chemicals - Health Effects

(6) "NSF/ANSI 61" - the joint National Sanitation Foundation/American National Standards Institute 60, Drinking Water System Components - Health Effects

(7) "Pump Station" means a structure housing pumps and associated piping, valves, and auxiliary equipment.

(8) "Service Factor" - A multiplier which, when applied to rated power, indicates a permissible power loading that may be carried under the conditions specified for the service factor.

R309-540-4. Applicability.

Rule R309-540 applies to a pump, other than a well pump, that pumps drinking water for distribution or storage by a public water system.

R309-540-5. Pump Stations.

(1) Location. The location for a pump station shall be compatible with the hydraulics of the water system.

(2) Flood Protection and Site Drainage.

(a) A pump station shall be located at, or protected from, flooding to an elevation of at least three feet above either the 100-year flood or highest recorded flood, whichever is higher.

(b) The site for a pump station shall be graded to direct surface water drainage away from the pump station.

(3) Pump Station Drainage and Flooding Prohibition. A pump station:

(a) may not be subject to flooding;

(b) shall be drained to prevent water from collecting on the floor; and

(c) shall provide an outlet for drainage from pump glands, air release valves, and other equipment without allowing water to flow across the floor to reach the outlet. See Subsection R309-550-6(6) for clearance requirements for air release vent pipes discharging to floor drains.

(4) Access.

(a) A pump station shall be accessible.

(b) Access to a pump station in an underground vault or compartment or between floors of a pump station shall be provided by a permanent stairway, ladder, or ramp.

(5) Construction, Security, and Layout. A pump station shall be:

(a) weatherproof;

(b) constructed and maintained to exclude animals;

(c) locked to prevent unauthorized entry and vandalism; and

(d) sized, configured, and equipped to allow for:

(i) operation and maintenance; and

(ii) installation and removal of pumps and other equipment.

(6) Heating. Heating shall be provided if needed:

(a) for the safe and efficient operation of equipment; and

(b) to prevent equipment from freezing.

(7) Lighting. Lighting shall be provided to allow for the operation and maintenance of equipment.

(8) Ventilation.

(a) Ventilation shall be provided for a pump station.

(b) Forced ventilation of at least six air-changes per hour shall be provided for a pump station:

(i) in a confined space;

(ii) in a subsurface compartment or vault;

(iii) if an unsafe atmosphere may develop.

(9) Wet Wells. A Finished water wet well at a pump station shall:

(a) be waterproof;

(b) allow for the removal of water and sediment;

(c) be covered to protect the water from contamination; and

(d) have an access opening and a lid that meet the requirements for a water storage tank in Section R309-545-14.

(10) Return of Used Water to the Drinking Water System Prohibited. Water withdrawn from a public drinking water system for any use may not be returned to the system.

(11) Automatic and Remote-Controlled Stations.

(a) An automatically operated pump station shall have an automatic signaling apparatus that immediately notifies a water system operator when the station is out of service.

(b) A remote-controlled pump station shall be:

(i) electrically operated and controlled; and

(ii) have an automatic signaling apparatus that immediately notifies a water system operator when the station is out of service.

R309-540-6. Pumps.

(1) Capacity and Minimum Distribution System Pressure. A pump used to provide minimum distribution system pressure shall:

(a) have the capacity to meet the maximum demand of the specific portion of the distribution system served; and

(b) be capable of providing the minimum pressures required by Section R309-105-9.

(2) Number of Pumps.

(a) A water supplier shall have at least two pumps installed and in operation at a booster pump facility that provides the only means available to meet the minimum distribution system pressure requirements of Section R309-105-9 for the water distribution pipeline served by the facility.

(b) A booster pump facility that requires at least two pumps shall meet the maximum demand of the water distribution pipeline served by the facility with the largest pump out of service.

(3) Booster Pumps.

(a) A booster pump shall be equipped with an automatic shutoff or low-pressure controller as recommended by the pump manufacturer.

(b) A booster pump withdrawing water from a distribution line shall maintain an intake pressure of at least 20 psi when the pump is in normal operation.

(c) A booster pump withdrawing water directly from a water storage tank shall be provided with net positive suction head.

(4) Pump Motor. A pump motor shall:

(a) be sized to meet operating conditions without overloading; and

(b) provide the maximum horsepower required by the pump without the use of a service factor.

(5) Certification of Drinking Water Treatment Chemicals and System Components.

(a) Chemicals added to drinking water at pump facilities shall be certified to meet NSF/ANSI 60.

(b) Products, components, and materials used in pump facilities that may impart chemical contaminants or impurities to drinking water shall be certified to meet NSF/ANSI 61.

(6) Suction Lift. When a pump provides suction lift:

(a) the maximum lift shall be within the pump manufacturer's recommended limits; and

(b) tanks priming shall be provided for the pump.

(7) Priming.

(a) When a pump requires priming, the priming system shall:

(i) use water of at least the same quality as the water being pumped; and

(ii) include a means to prevent back siphoning.

(b) When an air-operated ejector is used for vacuum priming, it shall draw clean air through a screened intake:

(i) at least ten feet above the ground; and

(ii) at least ten feet away from a point of contamination.

(8) Water Seal.

(a) Water used as a seal for a pump shall be of at least the same quality of the water being pumped.

(b) A water line supplying drinking water used as a seal for a pump that pumps non-potable water shall be protected from backflow.

(9) Individual Home Booster Pumps. Individual home booster pumps shall not be allowed for any individual service from the public water supply main. Exceptions may be granted by the Director if it can be shown that the granting of an exception will not jeopardize public health.

R309-540-7. Pump Appurtenances.

(1) Valves.

(a) Valves shall be provided to allow satisfactory operation and maintenance of a pump facility.

(b) Each pump shall have an isolation valve:

(i) on the intake side of the pump; and

(ii) on the discharge side of the pump.

(c) An air release valve shall:

(i) be provided where needed to allow the release of accumulated air in pump facility piping; and

(ii) meet the requirements of Subsection R309-550-6(6).

(d) If used, a foot valve shall be sized according to the manufacturer's recommendation.

(2) Piping. Piping for a pump shall:

(a) have watertight joints; and

(b) be protected against surge or water hammer

(3) Controls. Controls for a pump shall:

(a) be protected from flooding;

(b) allow a pump motor to operate at rated capacity without overloading;

(c) have proper overload protection for the air temperature encountered;

(d) provide for alternate operation of pumps where two or more pumps are installed;

(e) prevent the pump motor from starting during pump backspin;

(f) set start and cutoff pressures to prevent continuous on-off cycling;

(g) follow manufacturer's requirements for automatic cutoff pressure; and

(h) prevent surge pressures from activating controls that turn on pumps or other equipment outside the normal design cycle of operation.

(4) Water Pre-Lubrication of Pump Bearings. If water is used for automatic pre-lubrication of pump bearings, and an auxiliary direct-drive power supply is provided:

(a) the pre-lubrication line shall have a valved bypass around the automatic control so that the bearings can be lubricated manually before the pump is started; or

(b) the pre-lubrication controls shall be wired to the auxiliary power supply.

(5) Pressure Measurement. A pump or group of pumps operating together shall have a means of measuring pressure:

(a) on the discharge line; and

(b) on the intake line capable of indicating positive and negative pressure.

(6) Standby Power Supply.

(a) A community water system that relies solely on a pump facility to supply water to a service area shall be provided with standby power, power using a permanent or portable generator or electrical service from two independent substations.

(b) If a fuel-operated generator provides standby power:

(i) the water supply shall be protected from contamination from the fuel supply and fuel line; and

(ii) a carbon monoxide detector shall be installed if the generator is located indoors.

R309-540-8. Hydropneumatic Facilities for Maintaining Distribution System Pressure.

(1) Applicability.

(a) Section R309-540-8 applies to a hydropneumatic facility that maintains distribution system pressure for a public water system.

(b) Sections R309-540-5 through R309-540-7 apply to a pump, other than a well pump, that supplies water under pressure to a hydropneumatic pressure tank.

(c) Section R309-540-8 applies to air-over-water, diaphragm, and bladder hydropneumatic pressure tanks.

(d) Section R309-540-8 does not apply to:

(i) a surge protection tank;

(ii) pressure relief equipment; or

(iii) a pressure tank dedicated solely to fire suppression.

(2) Number of Pumps. A public water system using a hydropneumatic facility to meet the minimum distribution system pressure requirements of Section R309-105-9 shall have at least two pumps installed and in operation at the hydropneumatic facility, unless the hydropneumatic facility is supplied solely by a well pump.

(3) Pressure Tank Certification. A hydropneumatic pressure tank shall have:

(a) NSF/ANSI 61 certification; and
(b) ASME Boiler and Pressure Vessel Code certification.
(4) Use of Pressure Tank Volume for Water Storage Sizing. A community water system may not use the volume of a hydropneumatic pressure tank to meet the water storage sizing requirements in Section R309-510-8.
(5) Pressure Tank Located Below Ground.
(a) A below-ground location for a hydropneumatic pressure tank and appurtenances shall meet the requirements of:
(i) Subsection R309-540-5(2) for flood protection and site drainage;
(ii) Subsection R309-540-5(3) for pump station drainage and flooding prohibition;
(iii) Subsection R309-540-5(4)(b) for access; and
(iv) Subsection R309-540-5(8) for ventilation.
(b) Electrical controls for a hydropneumatic pressure tank located below ground shall be:
(i) located above grade; and
(ii) protected from flooding.
(6) Operating Pressure Measurement. A means to measure the operating pressures of a hydropneumatic facility shall be provided.
(7) Bypass Piping. Each hydropneumatic tank shall have bypass piping and isolation valves to allow the tank to be removed from service without disruption of water distribution.
(8) Pressure Tank Sizing. The minimum volume of a hydropneumatic tank shall be sized to avoid continuous pump cycling as recommended by the manufacturer.
(9) Air-Over-Water Pressure Tanks.
(a) An air-over-water pressure tank shall have:
(i) an access opening;
(ii) a drain;
(iii) a means to measure pressure;
(iv) a means to measure the water level in the tank;
(v) an automatic or manual air blow-off;
(vi) a means for adding air; and
(vii) pressure operated start-stop controls for a pump.
(b) Air delivered by a compressor to an air-over-water pressure tank shall be:
(i) drawn from a point above ground;
(ii) free of contamination;
(iii) filtered; and
(iv) oil free.
(c) The volume of water remaining in an air-over-water pressure tank at the lowest pressure setting shall provide a water seal at the water outlet to prevent the leakage of air.

KEY: drinking water, pumps, hydropneumatic systems, individual home booster pumps
Date of Last Change: [~~February 15, 2009~~]2024
Notice of Continuation: March 12, 2020
Authorizing, and Implemented or Interpreted Law: 19-4-104

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R309-600**	**Filing ID: 56381**

Agency Information

1. Department:	Environmental Quality
Agency:	Drinking Water
Building:	Multi-Agency State Office Building
Street address:	195 N 1950 W
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 144830
City, state and zip:	Salt Lake City, UT 84114-4830

Contact persons:

Name:	**Phone:**	**Email:**
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Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R309-600. Source Protection: Drinking Water Source Protection For Groundwater Sources.

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

The Division of Drinking Water (Division) is proposing to make changes to Rule R309-600 to delete special construction criteria for sewer mains, laterals, and maintenance holes when locating new groundwater sources in Source Protection Zone 2 because the criteria can rarely be met, and the Division frequently must issue exceptions to the rule requirements, which the Division believes are unnecessary to provide protection of groundwater sources.

4. Summary of the new rule or change:

The proposed amendment to Rule R309-600 deletes special construction requirements for sewer mains, laterals, and maintenance holes when locating a new groundwater source in Source Protection Zone 2.

It also deletes the requirement that the PER demonstrate that these requirements be met for sewer mains, laterals, or maintenance holes located in Source Protection Zone 2.

Sewer maintenance holes are added to the list of facilities that must meet special construction requirements and a minimum isolation distance from a wellhead or collection

area margin when locating a new groundwater source in Zone 1 for protected aquifers.

Nonsubstantive style and formatting changes were also made in accordance with the Rulewriting Manual for Utah.

Fiscal Information

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

A) State budget:

After an internal review, staff recommended updating this rule to better align with the needs of water systems.

The current rule contains special construction requirements for sewer mains, laterals, and maintenance holes when locating a new groundwater source. These criteria can rarely be met and exceptions must be issued.

With the rule changes, staff will no longer be required to issue exceptions but plan reviews will still be conducted.

Staff has reviewed all current water systems and all systems are in compliance with the new rule requirements so no cost or savings will be realized.

Any new groundwater source that is proposed will not need to meet this rule but will still require a staff review thus no cost will be incurred by the state, and since staff will continue performing reviews, no savings is anticipated.

B) Local governments:

Many local governments do not own or operate their water system. These local governments are not affected by the rule change.

This rule only affects those local governments that own and operate their own water system.

Staff have reviewed all current water systems and all systems are in compliance with the new rule requirements so no cost or savings will be realized.

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

Most small businesses do not own or operate their water system. These small businesses are not affected by the rule change.

This rule only affects those small businesses that own and operate their own water system.

Staff have reviewed all current water systems and all systems are in compliance with the new rule requirements so no cost or savings will be realized.

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

Most non-small businesses do not own or operate their water system. These non-small businesses are not affected by the rule change.

This rule only affects those non-small businesses that own and operate their own water system.

Staff have reviewed all current water systems and all systems are in compliance with the new rule requirements so no cost or savings will be realized.

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 Division does not regulate individuals or private water systems and therefore, this rule change does not have any application.

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

All regulated water systems are already in compliance with the existing rule or are under a compliance from the Division to come into compliance.

The revised rule only clarifies and updates the existing rule. Because all systems are currently in compliance, no cost is anticipated.

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 Environmental Quality, Kimberly Shelley, has reviewed and approved this regulatory impact analysis.

Citation Information

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

Subsection 19-4-104(1)(a)(iv)		

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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024

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:	Nathan Lunstad, PE, Division Director	**Date:**	03/14/2024

R309. Environmental Quality, Drinking Water.
R309-600. Source Protection: Drinking Water Source Protection [~~F~~]for [~~Ground-Water~~]Groundwater Sources.
R309-600-1. Authority.

Under the authority of Subsection 19-4-104(1)(a)(iv), the Drinking Water Board adopts this rule which governs the protection of [~~ground-water~~]groundwater sources of drinking water.

R309-600-2. Purpose.

Public Water Systems (PWSs) are responsible for protecting their sources of drinking water from contamination. [~~R309-600~~]This rule sets forth minimum requirements to establish a uniform, statewide program for implementation by PWSs to protect their [~~ground-water~~]groundwater sources of drinking water.[-] PWSs are encouraged to enact more stringent programs to protect their sources of drinking water if they decide they are necessary.

[~~R309-600~~]This rule applies to [~~ground-water~~]groundwater sources and to [~~ground-water~~]groundwater sources which are under the direct influence of surface water which are used by PWSs to supply their systems with drinking water. [ ]However, compliance with this rule is voluntary for existing [~~ground-water~~]groundwater sources of drinking water which are used by [~~public (~~]transient[~~)~~] non-community water systems.

R309-600-3. Implementation.

(1) New [~~Ground-Water~~]Groundwater Sources - Each PWS shall submit a Preliminary Evaluation Report (PER) in accordance with Subsection R309-600-13(2) for each of its new [~~ground-water~~]groundwater sources to the Division of Drinking Water (DDW).[-] A PWS shall not begin construction of a new source until the Director concurs with its PER.

(2) Existing [~~Ground-Water~~]Groundwater Sources - Each PWS shall submit a Drinking Water Source Protection (DWSP) Plan in accordance with Subsection R309-600-7(1) for each of its existing [~~ground-water~~]groundwater sources to DDW according to the following schedule. [~~–~~]Well fields or groups of springs may be considered[~~ to be~~] a single source.

[~~TABLE 1~~

~~Population Served By PWS: | Percent Of Sources: | DWSP Plans Due By:~~

~~Over 10,000 | 50% of wells | December 31, 1995~~
~~Over 10,000 | 100% of wells | December 31, 1996~~
~~3,300 10,000 | 100% of wells | December 31, 1997~~
~~Less than 3,300 | 100% of wells | December 31, 1998~~
~~Springs and other sources | 100% | December 31, 1999~~
]

TABLE 1

Population Served By PWS:	Percent of Sources:	DWSP Plans Due By:
Over 10,000	50% of wells	December 31, 1995
Over 10,000	100% of wells	December 31, 1996
3,300-10,000	100% of wells	December 31, 1997
Less than 3,300	100% of wells	December 31, 1998
Springs and other sources	100%	December 31, 1999

(3) DWSP for existing [~~ground-water~~]groundwater sources under the direct influence of surface water shall be accomplished through delineation of both the [~~ground water~~]groundwater and surface water contribution areas. [~~–~~]The requirements of Subsection R309-600-7(1) apply to the [~~ground water~~]groundwater portion and the requirements of Rule R309-605 apply to the surface water portion, except that the schedule for submitting these DWSP [~~p~~]Plans to DDW is based on the schedule in Subsection R309-605-3(1).

(4) PWSs shall maintain [~~all~~]land use agreements which were established under previous rules to protect their [~~ground-water~~]groundwater sources of drinking water from contamination.

R309-600-4. Exceptions.

(1) Exceptions to the requirements of Rule R309-600 or parts thereof may be granted by the Director to PWSs if: [-]due to compelling factors[~~(~~], which may include economic factors[~~),~~], a PWS [~~is unable to~~]cannot comply with these requirements, and the granting of an exception will not result in an unreasonable risk to health.

(2) The Director may prescribe a schedule by which the PWS must come into compliance with the requirements of Rule R309-600.

R309-600-5. Designated Person.

(1) A designated person shall be appointed and reported in writing to the Director by each PWS within 180 days of the effective date of Rule R309-600. [-]The designated person's address, email address, and telephone number shall be included in the written correspondence. [—]Additionally, the [~~above~~]designated person's contact information must be included in each DWSP Plan and PER [~~that is~~]submitted to DDW.

(2) Each PWS shall notify the Director in writing within 30 days of any changes in the appointment of a designated person.

R309-600-6. Definitions.

[~~(1)~~]The following terms are defined for the purposes of this rule:

([~~a~~]1) "Collection area" means the area surrounding a [~~ground-water~~]groundwater source which is underlain by collection pipes, tile, tunnels, infiltration boxes, or other [~~ground-water~~]groundwater collection devices.

([~~b~~]2) "Controls" means

(a) the codes, ordinances, rules, and regulations currently in effect to regulate a potential contamination source.[~~"Controls" also means physical controls which may prevent contaminants from migrating off of a site and into surface or ground water. "Controls" also means negligible quantities of contaminants.~~]

[~~(c)~~] (b) physical controls which may prevent contaminants from migrating off a site and into surface water or groundwater.

(c) negligible quantities of contaminants.

(3) "Criteria" means the conceptual standards that form the basis for DWSP area delineation to include distance, [~~ground-water~~]groundwater time of travel, aquifer boundaries, and [~~ground-water~~]groundwater divides.

([~~d~~]4) "Criteria threshold" means a value or set of values selected to represent the limits above or below which a given criterion will [~~cease to provide~~]stop providing the desired degree of protection.

[~~(e) "DDW" means Division of Drinking Water.~~

~~(f)~~] (5) "DWSP Program" means the program to protect drinking water source protection zones and management areas from contaminants that may have an adverse effect on the health of persons.

([~~g~~]6) "DWSP Zone" means the surface and subsurface area surrounding a [~~ground-water~~]groundwater source of drinking water supplying a PWS, through which contaminants are reasonably likely to move toward and reach such [~~ground-water~~]groundwater source.

([~~h~~]7) "Designated person" means the person appointed by a PWS to ensure that the requirements of Rule R309-600 are met.

([~~i~~]8) "Director" means the Director of the Division of Drinking Water.

([~~j~~])9) "Engineer" means [~~a person licensed under the~~]the same as "Professional Engineer" as defined in Title 58, Chapter 22, Professional Engineers and Land Surveyors Licensing Act[~~, 58-22 of the Utah Code, as a "professional engineer" as defined therein~~].

([~~k~~]10) "Existing [~~ground-water~~]groundwater source of drinking water" means a public supply [~~ground-water~~]groundwater source for which plans and specifications were submitted to DDW on or before July 26, 1993.

([~~l~~]11) "Geologist" means [~~a person licensed under the~~]the same as "Professional Geologist" as defined in Title 58, Chapter 76, Professional Geologist Licensing Act[~~, 58-76 of the Utah Code, as a "professional geologist" as defined therein~~].

[~~(m) "Ground-water~~] (12) " Groundwater Source" means any well, spring, tunnel, adit, or other underground opening from or through which [~~ground-water~~]groundwater flows or is pumped from subsurface water-bearing formations.

([~~n~~]13) "Hydrogeologic methods" means the techniques used to translate selected criteria and criteria thresholds into mappable delineation boundaries. [-]These methods include[~~, but are not limited to,~~] arbitrary fixed radii, analytical calculations and models, hydrogeologic mapping, and numerical flow models.

([~~o~~]14) "Land management strategies" means zoning and non-zoning strategies which include[~~, but are not limited to,~~] the following:[-] zoning and subdivision ordinances, site plan reviews, design and operating standards, source prohibitions, purchase of property and development rights, public education programs, [~~ground-water~~]groundwater monitoring, household hazardous waste collection programs, water conservation programs, memoranda of understanding, written contracts and agreements, and so forth.

([~~p~~]15) "Land use agreement" means a written agreement wherein the owner[~~(s)~~] agrees not to locate or allow the location of uncontrolled potential contamination sources or pollution sources within zone one of new wells in protected aquifers. [-]The owner[~~(s)~~] must also agree not to locate or allow the location of pollution sources within zone two of new wells in unprotected aquifers and new springs unless the pollution source agrees to install design standards which prevent contaminated discharges to [~~ground-water.~~]groundwater. This restriction must be binding on [~~all~~]any heirs, successors, and assigns.[-] Land use agreements must be recorded with the property description in the local county recorder's office. [—]Refer to Subsection R309-600-13(2)(d).

Land use agreements for protection areas on publicly owned lands need not be recorded in the local county recorder office. [-]However, a letter must be obtained from the Administrator of the land in question and meet the requirements[~~ described above~~].

([~~q~~]16) "Management area" means the area outside of zone one and within a two-mile radius where the Optional Two-[~~m~~]Mile Radius Delineation Procedure has been used to identify a protection area.

For wells, land may be excluded from the DWSP management area at locations where it is more than 100 feet lower in elevation than the total drilled depth of the well.

For springs and tunnels, the DWSP management area is [~~all~~]any land at an elevation equal to or higher than, and within a two-mile radius, of the spring or tunnel collection area. [-]The DWSP management area also includes [~~all~~]any land lower in elevation than, and within 100 horizontal feet, of the spring or tunnel collection area. [-]The elevation datum to be used is the point of water collection.[-] Land may also be excluded from the DWSP management area at locations where it is separated from the [~~ground-water~~]groundwater source by a surface drainage which is lower in elevation than the spring or tunnel collection area.

([~~r~~]17) "New [~~ground-water~~]groundwater source of drinking water" means a public supply [~~ground-water~~]groundwater

source of drinking water for which plans and specifications are submitted to DDW after July 26, 1993.

([~~s~~]18) "Nonpoint source" means any diffuse source of pollutants or contaminants not otherwise defined as a point source.

([~~t~~]19) "PWS" means public water system.

([~~u~~]20) "Point source" means any discernible, confined, and discrete source of pollutants or contaminants, including [~~but not limited to~~]any site, pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, animal feeding operation with more than ten animal units, landfill, or vessel or other floating craft, from which pollutants are or may be discharged.

([~~v~~]21) "Pollution source" means point source discharges of contaminants to [~~ground-water~~]groundwater or potential discharges of the liquid forms of "extremely hazardous substances" which are stored in containers in excess of "applicable threshold planning quantities" as specified in SARA Title III. [-]Examples of possible pollution sources include[~~,~~] [~~but are not limited to,~~]the following:[-] storage facilities that store the liquid forms of extremely hazardous substances, septic tanks, drain fields, class V underground injection wells, landfills, open dumps, landfilling of sludge and septage, manure piles, salt piles, pit privies, drain lines, and animal feeding operations with more than ten animal units.

The following definitions are part of Rule R309-600 and clarify the meaning of "pollution source:"

([~~i~~]a) "Animal feeding operation" means a lot or facility where the following conditions are met: animals have been or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period, and crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. [-]Two or more animal feeding operations under common ownership are considered to be a single feeding operation if they adjoin each other, if they use a common area, or if they use a common system for the disposal of wastes.

([~~ii~~]b) "Animal unit" means a unit of measurement for any animal feeding operation calculated by adding the following numbers; the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 55 pounds multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

([~~iii~~]c) "Extremely hazardous substances" means those substances which are identified in the Sec. 302(EHS) column of the "Title III List of Lists: Consolidated List of Chemicals Subject to the Emergency Planning and Community Right-to-Know Act (EPCRA) and Section 112(R) of the Clean Air Act, As Amended," (550B98017). [-]A copy of this document may be obtained from: [ ]NCEPI, PO Box 42419, Cincinnati, OH 45202. [-]Online ordering is also available at [~~http://www.epa.gov/ncepihom/orderpub.html.~~]https://nepis.epa.gov/.

([~~w~~]22) "Potential contamination source" means any facility or site which employs an activity or procedure which may potentially contaminate [~~ground-water.~~]groundwater. A pollution source is also a potential contamination source.

([~~x~~]23) "Protected aquifer" means a producing aquifer in which the following conditions are met:

([~~i~~]a) [~~A~~]a naturally protective layer of clay, at least 30 feet in thickness, is present above the aquifer;

([~~ii~~]b) the PWS provides data to [~~indicate~~]show the lateral continuity of the clay layer to the extent of zone two; and

([~~iii~~]c) the public[-] supply well is grouted with a grout seal that extends from the ground surface down to at least 100 feet below the surface, and for a thickness of at least 30 feet through the protective clay layer.

([~~y~~]24) "Replacement well" means a public[-] supply well drilled for the sole purpose of replacing an existing public[-] supply well which is impaired or made useless by structural difficulties and in which the following conditions are met:

([~~i~~]a) the proposed well location shall be within a radius of 150 feet from an existing [~~ground-water~~]groundwater supply well, as defined in Subsection R309-600-6([~~1)(k~~]10); and

([~~ii~~]b) the PWS provides a copy of the replacement application approved by the State Engineer[~~-(~~], refer to Section 73-3-28[~~-of the Utah Code Annotated).~~].

([~~z~~]25) "Time of travel" means the time required for a particle of water to move in the producing aquifer from a specific point to a [~~ground-water~~]groundwater source of drinking water.

([~~aa~~]26) "Unprotected aquifer" means any aquifer that does not meet the definition of a protected aquifer.

([~~bb~~]27) "Wellhead" means the physical structure, facility, or device at the land surface from or through which [~~ground-water~~]groundwater flows or is pumped from subsurface, water-bearing formations.

R309-600-7. DWSP Plans.

(1) Each PWS shall develop, submit, and implement a DWSP Plan for each of its [~~ground-water~~]groundwater sources of drinking water.

Required Sections for DWSP Plans - DWSP Plans should be developed in accordance with the "Standard Report Format for Existing Wells and Springs." [-]This document may be obtained from DDW.[-] DWSP Plans must include the following seven sections:

(a) DWSP Delineation Report - A DWSP Delineation Report in accordance with Subsection R309-600-9(6[~~) is the first section of a DWSP Plan.~~]).

(b) Potential Contamination Source Inventory and Assessment of Controls [-]-- A Prioritized Inventory of Potential Contamination Sources and an assessment of their controls in accordance with Section R309-600-10[~~- is the second section of a DWSP Plan~~].

(c) Management Program to Control Each Preexisting Potential Contamination Source - A Management Program to Control Each Preexisting Potential Contamination Source in accordance with Section R309-600-11[~~- is the third section of a DWSP Plan~~].

(d) Management Program to Control or Prohibit Future Potential Contamination Sources - A Plan for Controlling or Prohibiting Future Potential Contamination Sources[~~- is the fourth section of a DWSP Plan.~~]. This must be in accordance with Section R309-600-12, consistent with[~~- the general provisions of~~] this rule, and implemented to an extent allowed under the PWS's authority and jurisdiction.

(e) Implementation Schedule - Each PWS shall develop a step-by-step implementation schedule which lists each of its proposed land management strategies with an implementation date for each strategy.

(f) Resource Evaluation - Each PWS shall assess the financial and other resources which may be required for it to implement each of its DWSP Plans and determine how these resources may be acquired.

(g) Recordkeeping - Each PWS shall document changes in each of its DWSP Plans as they are continuously updated to show current conditions in the protection zones and management areas. [

]As a DWSP Plan is executed, the PWS shall document any land management strategies that are implemented. [–]These documents may include any of the following: ordinances, codes, permits, memoranda of understanding, public education programs, public notifications, and so forth.

(2) DWSP Plan Administration - DWSP Plans shall be submitted, corrected, retained, implemented, updated, and revised according to the following:

(a) Submitting DWSP Plans - Each PWS shall submit a DWSP Plan to DDW in accordance with the schedule in Section R309-600-3 for each of its [~~ground-water~~]groundwater sources of drinking water.

(b) Correcting Deficiencies - Each PWS shall correct any deficiencies in a disapproved DWSP Plan and resubmit it to DDW within 90 days of the disapproval date.

(c) Retaining DWSP Plans - Each PWS shall [~~retain~~]keep on its premises a current copy of each of its DWSP Plans.

(d) Implementing DWSP Plans - Each PWS shall begin implementing each of its DWSP Plans in accordance with its schedule in Subsection R309-600-7(1)(e), within 180 days after submittal if they are not disapproved by the Director.

(e) Updating and Resubmitting DWSP Plans - Each PWS shall update its DWSP Plans as often as necessary to ensure they show current conditions in the DWSP zones and management areas. [–]Updated plans also document the implementation of land management strategies in the recordkeeping section. [~~–Actual e~~]Copies of any ordinances, codes, permits, memoranda of understanding, public education programs, bill stuffers, newsletters, training session agendas, minutes of meetings, memoranda for file[~~, etc~~]. must be submitted with the recordkeeping section of updated plans. [-]DWSP Plans are initially due according to the schedule in Section R309-600-3. [–]Thereafter, updated DWSP Plans are due every six years from their original due date.[–] This applies even though a PWS may have been granted an extension beyond the original due date.

(f) Revising DWSP Plans - Each PWS shall submit a revised DWSP Plan to DDW within 180 days after the reconstruction or redevelopment of any [~~ground-water~~]groundwater source of drinking water which addresses changes in source construction, source development, hydrogeology, delineation, potential contamination sources, and proposed land management strategies.

R309-600-8. DWSP Plan Review.

(1) The Director shall review each DWSP Plan submitted by PWSs and "concur," "concur with recommendations," "conditionally concur" or "disapprove" the plan. [-]The Director may also authorize the designated DDW Source Protection Manager to issue the following actions: "concur" and "concur with recommendations."

(2) The Director may "disapprove" DWSP Plans for any of the following reasons:

(a) [~~A~~]an inaccurate DWSP Delineation Report, a report that uses a non-applicable delineation method, or a DWSP Plan that is missing this report or any of the information and data required in it[~~-~~], refer to Subsection R309-600-9([~~6~~]7)[~~)~~];

(b) an inaccurate Prioritized Inventory of Potential Contamination Sources or a DWSP Plan that is missing this report or any of the information required in it[~~-~~], refer to Subsection R309-600-10(1[~~)~~]);

(c) an inaccurate assessment of current controls[~~-~~], refer to Subsection R309-600-10(2[~~)~~]);

(d) a missing Management Program to Control Each Preexisting Potential Contamination Source which has been assessed as "not adequately controlled" by the PWS[~~-~~], refer to Subsection R309-600-11(1[~~)~~]);

(e) a missing Management Program to Control or Prohibit Future Potential Contamination Sources[~~-~~], refer to Section R309-600-12[~~)~~];

(f) a missing or incomplete Implementation Schedule, Resource Evaluation, Recordkeeping Section, Contingency Plan, or Public Notification Plan[~~-~~], refer to Subsections R309-600-7(1)(e[~~)-~~]) through (g), Section R309-600-14, and Section R309-600-15[~~)~~].

(3) The Director may "concur with recommendations" when PWSs propose management programs to control preexisting potential contamination sources or management programs to control or prohibit future potential contamination sources for existing or new drinking water sources which appear inadequate or ineffective.

(4) The Director may "conditionally concur" with a DWSP Plan or PER. [-]The PWS must implement the conditions and report compliance the next time the DWSP Plan is due and submitted to DDW.

R309-600-9. Delineation of Protection Zones and Management Areas.

(1) PWSs shall delineate protection zones or a management area around each of their [~~ground-water~~]groundwater sources of drinking water using the Preferred Delineation Procedure or the Optional Two-[~~m~~]Mile Radius Delineation Procedure.[-] The hydrogeologic method used by PWSs shall produce protection zones or a management area in accordance with the criteria thresholds [~~below.~~]specified in Subsection R309-600-9(2) through Subsection R309-600-9(7). PWSs may also choose to verify protected aquifer conditions to reduce the level of management controls applied in applicable protection areas.

(2) Reports must be prepared by a qualified licensed professional - A submitted report which addresses any of the following sections shall be stamped and signed by a professional geologist or professional engineer:

(a) [~~A~~]a Delineation Report for Estimated DWSP Zones produced using the Preferred Delineation Procedure, as explained in Subsection R309-600-13(2)(a);

(b) a DWSP Delineation Report produced using the Preferred Delineation Procedure, as explained in Subsections R309-600-9(3)(a) and (6)(a);

(c) a report to verify protected aquifer conditions, as explained in Subsections R309-600-9(4) and (7);

(d) a report which addresses special conditions, as explained in Subsection R309-600-9(5); or

(e) a Hydrogeologic Report to Exclude a Potential Contamination Source, as explained in Subsection R309-600-9(6)(b)(ii).

(3) Criteria Thresholds for [~~Ground-water~~]Groundwater Sources of Drinking Water:

(a) Preferred Delineation Procedure - Four zones are delineated for management purposes:

(i) Zone one is the area within a 100-foot radius from the wellhead or margin of the collection area.

(ii) Zone two is the area within a 250-day [~~ground-water~~]groundwater time of travel to the wellhead or margin of the collection area, the boundary of the aquifer[~~(s)~~] which supplies water to the [~~ground-water~~]groundwater source, or the [~~ground-water~~]groundwater divide, whichever is closer. [-]If the available data [~~indicate~~]shows a zone of increased [~~ground-water~~]groundwater

velocity within the producing aquifer[~~(s),~~], then time[-] of[-] travel calculations shall be based on this data.

(iii) Zone three[~~(~~], waiver criteria zone[~~)~~], is the area within a 3-year [~~ground-water~~]groundwater time of travel to the wellhead or margin of the collection area, the boundary of the aquifer[~~(s)~~] which supplies water to the [~~ground-water~~]groundwater source, or the [~~ground-water~~]groundwater divide, whichever is closer. [-]If the available data [~~indicate~~]shows a zone of increased [~~ground-water~~]groundwater velocity within the producing aquifer[~~(s),~~], then time[-] of[-] travel calculations shall be based on this data.

(iv) Zone four is the area within a 15-year [~~ground-water~~]groundwater time of travel to the wellhead or margin of the collection area, the boundary of the aquifer[~~(s)~~] which supplies water to the [~~ground-water~~]groundwater source, or the [~~ground-water~~]groundwater divide, whichever is closer. [-]If the available data [~~indicate~~]shows a zone of increased [~~ground-water~~]groundwater velocity within the producing aquifer[~~(s),~~], then time[-] of[-] travel calculation shall be based on this data.

(b) Optional Two-[~~m~~]Mile Radius Delineation Procedure - In place of the Preferred Delineation Procedure, PWSs may choose to use the Optional Two-[~~m~~]Mile Radius Delineation Procedure to delineate a management area.[-] This procedure is best applied in remote areas where few if any potential contamination sources are located. [~~-~~]Refer to Subsection R309-600-6([~~1~~)(~~q~~]16) for the definition of a management area.

(4) Protected Aquifer Classification - PWSs may choose to verify protected aquifer conditions to reduce the level of management controls for a public[-] supply well which produces water from a protected aquifer[~~(s)~~] or to meet one of the requirements of a VOC or pesticide susceptibility waiver[~~(~~], refer to Subsection R309-600-16(4[~~)).~~]). Refer to Subsection R309-600-6([~~1~~)(~~x~~]23) for the definition of a "protected aquifer."

(5) Special Conditions - Special scientific or engineering studies may be conducted to support a request for an exception[~~(~~], refer to Section R309-600-4[~~)~~], due to special conditions. [-]These studies must be approved by the Director before the PWS begins the study. [-]Special studies may include confined aquifer conditions, [~~ground-water~~]groundwater movement through protective layers, wastewater transport and fate[~~, etc~~].

(6) DWSP Delineation Report - Each PWS shall submit a DWSP Delineation Report to DDW for each of its [~~ground-water~~]groundwater sources using the Preferred Delineation Procedure or the Optional Two-[~~m~~]Mile Radius Delineation Procedure.

(a) Preferred Delineation Procedure - Delineation reports for protection zones delineated using the Preferred Delineation Procedure shall include the following information and a list of [~~all~~]sources or references for this information:

(i) Geologic Data - A brief description of geologic features and aquifer characteristics observed in the well and area of the potential protection zones. [-]This should include the formal or informal stratigraphic name[~~(s),~~] lithology of the aquifer[~~(s)~~] and confining unit[~~(s),~~], and description of fractures and solution cavities[~~(~~], including the size, abundance, spacing, and orientation[~~)~~]; and faults[~~(~~], including a brief description of location in or near the well, and orientation[~~).~~]. Lithologic descriptions can be obtained from surface hand samples or well cuttings; core samples and laboratory analyses are not necessary. [-]Fractures, solution cavities, and faults may be described from surface outcrops or drill logs.

(ii) Well Construction Data - If the source is a well, the report shall include the well driller's log, elevation of the wellhead, borehole radius, casing radius, total depth of the well, depth and length of the screened or perforated interval[~~(s),~~], well screen or perforation type, casing type, method of well construction, type of pump, location of pump in the well, and the maximum projected pumping rate of the well. [-]The maximum pumping rate of the well must be used in the delineation calculations.[-] Averaged pumping rate values shall not be used.

(iii) Spring Construction Data - If the source is a spring or tunnel the report shall include a description or diagram of the collection area and method of [~~ground-water~~]groundwater collection.

(iv) Aquifer Data for New Wells - A summary report including the calculated hydraulic conductivity of the aquifer, transmissivity, hydraulic gradient, direction of [~~ground-water~~]groundwater flow, estimated effective porosity, and saturated thickness of the producing aquifer[~~(s).~~]. The PWS shall obtain the hydraulic conductivity of the aquifer from a constant-rate aquifer test and provide the data as described in Subsection R309-515-6(10)(b). [-]Estimated effective porosity must be between 1% and 30%.[-] Clay layers shall not be included in calculations of aquifer thickness or estimated effective porosity. [-]This report shall include graphs, data, or printouts showing the interpretation of the aquifer test.

(v) Aquifer Data for Existing Wells - A summary report including the calculated hydraulic conductivity of the aquifer, transmissivity, hydraulic gradient, direction of [~~ground-water~~]groundwater flow, estimated effective porosity, and saturated thickness of the producing aquifer[~~(s).~~]. The PWS shall obtain the hydraulic conductivity of the aquifer from a constant-rate aquifer test using the existing pumping equipment. [~~-~~]Aquifer tests using observation wells are encouraged[~~,~~] but are not required. [-]If a previously performed aquifer test is available and includes the required data described [~~below,~~]in Subsection R309-600-9(6)(v)(A) and Subsection R309-600-9(6)(v)(B), data from that test may be used instead. [-]Estimated effective porosity must be between 1% and 30%.[-] Clay layers shall not be included in calculations of aquifer thickness or estimated effective porosity. [-]This report shall include graphs, data, or printouts showing the interpretation of the aquifer test.

If a constant-rate aquifer test is not practical, then the PWS shall obtain hydraulic conductivity of the aquifer using another appropriate method, such as data from a nearby well in the same aquifer, specific capacity of the well, published hydrogeologic studies of the same aquifer, or local or regional [~~ground-water~~]groundwater models.[~~-~~] A constant-rate test may not be practical for such reasons as insufficient drawdown in the well, inaccessibility of the well for water-level measurements, or insufficient overflow capacity for the pumped water.

The constant-rate test shall:

(A) Provide for continuous pumping for at least 24 hours or until stabilized drawdown has continued for at least six hours. [ ]Stabilized drawdown is achieved when there is less than one foot of change of [~~ground-water~~]groundwater level in the well within a six-hour period.

(B) Provide data as described in Subsections R309-515-6(10)(b)(v) through (vii).

(vi) Additional Data for Observation Wells - If the aquifer test is conducted using observation wells, the report shall include the following information for each observation well: location and surface elevation; total depth; depth and length of the screened or perforated intervals; radius, casing type, screen or perforation type, and method of construction; [~~prepumping ground-water~~] pre-pumping groundwater level; the time-drawdown or distance-drawdown data and curve; and the total drawdown.

(vii) Hydrogeologic Methods and Calculations - These include the [~~ground-water~~]groundwater model or other hydrogeologic methods used to delineate the protection zones, [~~all~~]any applicable equations, values, and the calculations which determine the delineated boundaries of zones two, three, and four. [ ]The hydrogeologic method or [~~ground-water~~]groundwater model must be reasonably applicable for the aquifer setting. [-]For wells, the hydrogeologic method or [~~ground-water~~]groundwater model must include the effects of drawdown[~~(~~], including increased hydraulic gradient near the well[~~)~~], and interference from other wells.

(viii) Map Showing Boundaries of the DWSP Zones - A map showing the location of the [~~ground-water~~]groundwater source of drinking water and the boundary for each DWSP zone. [-]The base map shall be a 1:24,000-scale[~~(~~], 7.5-minute series[~~)~~], topographic map, such as is published by the [~~U.S.~~]US Geological Survey. [ ]Although zone one[~~(~~], 100-foot radius around the well or margin of the collection area[~~)~~], need not be on the map, the complete boundaries for zones two, three, and four must be drawn and labeled. [-]More detailed maps are optional and may be submitted in addition to the [~~map~~]required [~~above~~]map.

The PWS shall also include a written description of the distances which define the delineated boundaries of zones two, three, and four. [–]These written descriptions must include the maximum distances upgradient from the well, the maximum distances downgradient from the well, and the maximum widths of each protection zone.

(b) Optional Two-Mile Radius Delineation Procedure - Delineation Reports for protection areas delineated using the Optional Two-[~~m~~]Mile Radius Delineation Procedure shall include the following information:

(i) Map Showing Boundaries of the DWSP Management Area - A map showing the location of the [~~ground-water~~]groundwater source of drinking water and the DWSP management area boundary. [–]The base map shall be a 1:24,000-scale[~~(~~], 7.5-minute series[~~)~~], topographic map, such as is published by the [~~U.S.~~]US Geological Survey. [-]Although zone one[~~(~~], 100-foot radius around the well or margin of the collection area[~~)~~], need not be on the map, the complete two-mile radius must be drawn and labeled. [-]More detailed maps are optional and may be submitted in addition to the [~~map~~]required [~~above~~]map.

(ii) Hydrogeologic Report to Exclude a Potential Contamination Source - To exclude a potential contamination source from the inventory which is required in Subsection R309-600-10(1), a hydrogeologic report is required which clearly demonstrates that the potential contamination source has no capacity to contaminate the source.

(7) Protected Aquifer Conditions - If a PWS chooses to verify protected aquifer conditions, it shall submit the following additional data to DDW for each of its [~~ground-water~~]groundwater sources for which the protected aquifer conditions apply.[–] The report must state that the aquifer meets the definition of a protected aquifer based on the following information:

(a) thickness, depth, and lithology of the protective clay layer;

(b) data to [~~indicate~~]show the lateral continuity of the protective clay layer over the extent of zone two.[-] This may include such data as correlation of beds in multiple wells, published hydrogeologic studies, stratigraphic studies, potentiometric surface studies, and so forth; and

(c) evidence that the well has been grouted or otherwise sealed from the ground surface to a depth of at least 100 feet and for a thickness of at least 30 feet through the protective clay layer in accordance with Subsections R309-600-6([~~1)(x~~]23) and R309-515-6(6[~~)(i~~]).

R309-600-10. Potential Contamination Source Inventory and Identification and Assessment of Controls.

(1) Prioritized Inventory of Potential Contamination Sources - Each PWS shall list [~~all~~]every potential contamination source[~~s~~] within each DWSP zone or management area in priority order and state the basis for this order. [-]This priority ranking shall be according to relative risk to the drinking water source. [-]The name and address of each commercial and industrial potential contamination source is required.[–] Additional information should include the name and phone number of a contact person and a list of the chemical, biological, and[~~/or~~] radiological hazards associated with each potential contamination source.[-] Additionally, each PWS shall identify each potential contamination source as to its location in zones one, two, three, four or in a management area and plot it on the map required in Subsection R309-600-9(6)(a)(viii) or Subsection R309-600-9(6)(b)(i).

(a) List of Potential Contamination Sources - A List of Potential Contamination Sources is found in the "Source Protection User's Guide for [~~Ground-Water~~]Groundwater Sources." [–]This document may be obtained from DDW.[-] This list may be used by PWSs as a guide to inventorying potential contamination sources within their DWSP zones and management areas.

(b) Refining, Expanding, Updating, and Verifying Potential Contamination Sources - Each PWS shall update its list of potential contamination sources to show current conditions within DWSP zones or management areas. [-]This includes adding potential contamination sources which have moved into DWSP zones or management areas, deleting potential contamination sources which have moved out, improving available data about potential contamination sources, and [~~all~~]any other appropriate refinements.

(2) Identification and Assessment of Current Controls - PWSs are not required to plan and implement land management strategies for potential contamination source hazards that are assessed as "adequately controlled." [-]If controls are not identified, the potential contamination source will be [~~considered to be~~]"not adequately controlled."[-] Additionally, if the hazards at a potential contamination source cannot be identified, the potential contamination source must be assessed as "not adequately controlled." [-]Identification and assessment should be limited to one of the following controls for each applicable hazard: regulatory, best management[~~/~~] and pollution prevention, physical, or negligible quantity.[–] Each of the following topics for a control must be addressed before identification and assessment will be considered [~~to be~~]complete. [–]Refer to the "Source Protection User's Guide for [~~Ground-Water~~]Groundwater Sources" for a list of government agencies and the programs they administer to control potential contamination sources. [-]This guide may be obtained from DDW.

(a) Regulatory Controls - Identify the enforcement agency and verify that the hazard is being regulated by them; cite and[~~/or~~] quote applicable references in the regulation, rule or ordinance which pertain to controlling the hazard; explain how the regulatory control prevents [~~ground-water~~]groundwater contamination; assess the hazard; and set a date to reassess the hazard.

(b) Best Management[~~/~~] and Pollution Prevention Practice Controls - List the specific best management[~~/~~] and pollution prevention practices which have been implemented by potential contamination source management to control the hazard and [~~indicate~~]show that they are willing to continue the use of these practices; explain how these practices prevent [~~ground-~~

~~water~~]groundwater contamination; assess the hazard; and set a date to reassess the hazard.

(c) Physical Controls - Describe the physical [~~control(s)~~]controls which have been constructed to control the hazard; explain how these controls prevent contamination; assess the hazard; and set a date to reassess the hazard.

(d) Negligible Quantity Control - Identify the quantity of the hazard that is being used, disposed, stored, manufactured, [~~and/~~]or transported; explain why this amount should be considered a negligible quantity; assess the hazard; and set a date to reassess the hazard.

(3) For [~~the purpose of~~]meeting the requirements of Rule R309-600, the Director will consider a PWS's assessment that a potential contamination source which is covered by a permit or approval under one of the regulatory programs listed below sufficient to demonstrate that the source is adequately controlled unless otherwise determined by the Director. [~~–~~]For [~~all~~]any other state programs, the PWS's assessment is subject to review by the Director; as a result, a PWS's DWSP Plan may be disapproved if the Director does not concur with its assessment[~~(s).~~].

(a) The Utah [~~Ground Water~~]Groundwater Quality Protection program established by Section 19-5-104 and Rule R317-6;

(b) closure plans or Part B permits under authority of the Resource Conservation and Recovery Act (RCRA) of 1984 regarding the monitoring and treatment of [~~ground water~~]groundwater;

(c) the Utah Pollutant Discharge Elimination System (UPDES) established by Section 19-5-104 and Rule R317-8;

(d) the Underground Storage Tank Program established by Section 19-6-403 and Rules R311-200 through R311-208; and

(e) the Underground Injection Control (UIC) Program for classes I-IV established by Sections 19-5-104 and 40-6-5 and Rules R317-7 and R649-5.

R309-600-11. Management Program to Control Each Preexisting Potential Contamination Source.

(1) PWSs shall plan land management strategies to control each preexisting potential contamination source in accordance with their authority and jurisdiction. [-]Land management strategies must be consistent with [~~the provisions of~~]Rule R309-600, designed to control potential contamination, and may be regulatory or non-regulatory. [~~–~~]Each potential contamination source listed on the inventory required in Subsection R309-600-10(1) and assessed as "not adequately controlled" must be addressed. [-]Land management strategies must be implemented according to the schedule required in Subsection R309-600-7(1)(e).

(2) PWSs with overlapping protection zones and management areas may cooperate in controlling a particular preexisting potential contamination source if one PWS will agree to take the lead in planning and implementing land management strategies and the remaining [~~PWS(s)~~]PWSs will assess the preexisting potential contamination source as "adequately controlled."

R309-600-12. Management Program to Control or Prohibit Future Potential Contamination Sources for Existing Drinking Water Sources.

(1) PWSs shall plan land management strategies to control or prohibit future potential contamination sources within each of its DWSP zones or management areas consistent with [~~the provisions of~~]Rule R309-600 and to an extent allowed under its authority and jurisdiction. Land management strategies must be designed to control potential contamination and may be regulatory or non-regulatory. [ ]Additionally, land management strategies must be implemented according to the schedule required in Subsection R309-600-7(1)(e).

(2) Protection areas may extend into neighboring cities, towns, and counties.[-] Since it may not be possible for some PWSs to enact regulatory land management strategies outside of their jurisdiction, except as described [~~below,~~]in Subsection R309-600-12(3) and Subsection R309-600-12(4), it is recommended that these PWSs contact their neighboring cities, towns, and counties to see if they are willing to implement protective ordinances to prevent [~~ground-water~~]groundwater contamination under joint management agreements.

(3) Cities and towns have extraterritorial jurisdiction in accordance with Section 10-8-15 [~~of the Utah Code Annotated~~]to enact ordinances to protect a stream or [~~"~~]source[~~"~~] from which their water is taken[~~..."~~] for 15 miles above the point from which it is taken and for a distance of 300 feet on each side of such stream[~~..."~~]. Section 10-8-15 includes [~~ground-water~~]groundwater sources.

(4) Zoning ordinances are an effective means to control potential contamination sources that may want to move into protection areas. [-]They allow PWSs to prohibit facilities that would discharge contaminants directly to [~~ground-water.~~]groundwater. They also allow PWSs to review plans from potential contamination sources to ensure there will be adequate spill protection and waste disposal procedures[~~, etc~~]. If zoning ordinances are not used, PWSs must establish a plan to contact potential contamination sources individually as they move into protection areas, identify and assess their controls, and plan land management strategies if they are not adequately controlled.

R309-600-13. New [~~Ground-water~~]Groundwater Sources of Drinking Water.

(1) [~~Prior to~~]Before constructing a new [~~ground-water~~]groundwater source of drinking water, each PWS shall develop a PER which demonstrates whether the source meets the requirements of this section and submit it to DDW. [-]Additionally, engineering information in accordance with Subsection R309-515-6(5)(a) or Subsection R309-515-7(4) must be submitted to DDW.[-] The Director will not grant plan approval until both source protection and engineering requirements are met. [~~–~~]Construction standards relating to protection zones and management areas[~~ (~~], including fencing, diversion channels, sewer line construction, and grouting, [~~etc.) ~~]are found in Rule R309-515.[-] After the source is constructed a DWSP Plan must be developed, submitted, and implemented accordingly.

(2) Preliminary Evaluation Report for New Sources of Drinking Water - PERs shall cover [~~all~~]each of the four zones or the entire management area.[-] PERs should be developed in accordance with the "Standard Report Format for New Wells and Springs." [ ]This document may be obtained from DDW.[-] PWSs shall include the following four sections in each PER:

(a) Delineation Report for Estimated DWSP Zones - The same requirements apply as in Subsection R309-600-9(6), except that the hydrogeologic data for the PER must be developed using the best available data which may be obtained from: [~~–~~]surrounding wells, published information, or surface geologic mapping. [-]PWSs must use the Preferred Delineation Procedure to delineate protection zones for new wells.[-] The Delineation Report for Estimated DWSP Zones shall be stamped and signed by a professional geologist or professional engineer unless the Optional Two-Mile Radius Delineation Procedure is used for a new spring.

(b) Inventory of Potential Contamination Sources and Identification and Assessment of Controls - The same requirements apply as in Subsections R309-600-10(1) and (2).[-] Additionally, the PER must demonstrate that the source meets the following requirements:

(i) Protection Areas Delineated using the Preferred Delineation Procedure in Protected Aquifers - A PWS shall not locate a new [~~ground-water~~]groundwater source of drinking water where an uncontrolled potential contamination source or a pollution source exists within zone one.

(ii) Protection Areas Delineated using the Preferred Delineation Procedure in Unprotected Aquifers - A PWS shall not locate a new [~~ground-water~~]groundwater source of drinking water where an uncontrolled potential contamination source or an uncontrolled pollution source exists within zone one. [-]Additionally, a new [~~ground-water~~]groundwater source of drinking water may not be located where a pollution source exists within zone two unless the pollution source implements design standards which prevent contaminated discharges to [~~ground-water~~]groundwater.

(iii) Management Areas Delineated using the Optional Two-Mile Radius Delineation Procedure - A PWS shall not locate a new spring where an uncontrolled potential contamination source or a pollution source exists within zone one. [~~–~~]Additionally, a new spring may not be located where a pollution source exists within the management area unless: a hydrogeologic report in accordance with Subsection R309-600-9(6)(b)(ii) which verifies that it does not impact the spring; or the pollution source implements design standards which prevent contaminated discharges to [~~ground water~~]groundwater.

(c) Land Ownership Map - A land ownership map which includes [~~all~~]the entirety of land within zones one and two or the entire management area.[~~–~~] Additionally, include a list which exclusively identifies the land owners in zones one and two or the management area, the [~~parcel(s)~~]parcels of land which they own, and the zone in which they own land.[-] A land ownership map and list are not required if ordinances are used to protect these areas.

(d) Land Use Agreements, Letters of Intent, or Zoning Ordinances - Land use agreements which meet the requirements of the definition in Subsection R309-600-6([~~1)(p).~~]15). Zoning ordinances which are already in effect or letters of intent may be substituted for land use agreements; however, they must accomplish the same level of protection that is required in a land use agreement. Letters of intent must be notarized, include the same language that is required in land use agreements, and contain the statement that "the owner agrees to record the land use agreement in the county recorder's office, if the source proves to be an acceptable drinking water source." [-]The PWS shall not introduce a new source into its system until copies of [~~all~~]each applicable recorded land use agreements are submitted to DDW.

(3) Sewers Within DWSP [~~Zones and Management Areas - Sewer lines may~~]Zone One - A new groundwater source shall not be located where a sanitary sewer line, sewer lateral, or sewer maintenance access exists within zone[~~s~~] one [~~and two or a management area~~]unless the criteria identified [~~below~~]in Subsection R309-600-13(3)(a) or Subsection R309-600-13(3)(b) are met. [~~–~~]If sewer lines, sewer laterals, or sewer maintenance access are located or planned to be located within zone[~~s~~] one[~~ and two or a management area~~], the PER must demonstrate that they comply with these criteria. Sewer lines that comply with these criteria may be assessed as adequately controlled potential contamination sources.

(a) Unprotected Aquifers -[

~~(i) Zone~~] In zone one[~~ all~~], each sewer [~~lines and laterals~~]line, sewer lateral, and sewer maintenance access shall be constructed in accordance with Subsection R309-515-6(4) and shall be at least 50 feet from the wellhead or margin of the collection area[~~, and be constructed in accordance to R309-515-6~~].

[~~(ii) Zone two- all sewer lines and laterals within zone two or a management area shall be constructed in accordance with R309-515-6.~~]

(b) Protected Aquifers - [~~in~~]In zone one[~~ all~~], each sewer [~~lines~~]line, sewer lateral, and [~~laterals~~]sewer maintenance access shall be constructed in accordance with Subsection R309-515-6[~~,~~](4), and shall be at least 10 feet from the wellhead or margin of the collection area.

(4) Use waivers for the VOC and pesticide parameter groups may be issued if the inventory of potential contamination sources indicates that the chemicals within these parameter groups are not used, disposed of, stored, transported, or manufactured within zones one, two, and three or the management area.

(5) Replacement Wells - A PER is not required for proposed wells[~~,~~] if the PWS receives written notification from the Director that the well is classified as a replacement well. [-]The PWS must submit a letter requesting that the well be classified as a replacement well and include documentation to show that the conditions required in Subsection R309-600-6([~~1)(y~~]24) are met.[-] If a proposed well is classified as a replacement well, the PWS is still required to submit and obtain written approval for [~~all~~]any other information as required in:

(a) DWSP Plan for New Sources of Drinking Water[~~-(~~], refer to Subsection R309-600-13(6)[~~,~~]; and

(b) the Outline of Well Approval Process[~~-(~~], refer to Subsection R309-515-6(5[~~)).~~]).

(6) DWSP Plan for New Sources of Drinking Water - The PWS shall submit a DWSP Plan in accordance with Subsection R309-600-7(1) for any new [~~ground-water~~]groundwater source of drinking water within one year after the date of the Director's concurrence letter for the PER. [~~–~~]In developing this DWSP Plan, PWSs shall refine the information in the PER by applying any new, as-constructed characteristics of the source[~~ (i.e., ~~], for example pumping rate[~~,~~] and aquifer test[~~, etc.).~~].

R309-600-14. Contingency Plans.

PWSs shall submit a Contingency Plan which includes [~~all~~]any sources of drinking water for their entire water system to DDW concurrently with the submission of their first DWSP Plan. [ ]Guidance for developing Contingency Plans may be found in the "Source Protection User's Guide for [~~Ground-Water~~]Groundwater Sources."[-] This document may be obtained from DDW.

R309-600-15. Public Notification.

A PWSs consumers must be notified that its DWSP [~~p~~]Plans are available for their review. [~~–~~]This notification must be released to the public by December 31, 2003. [-]Public notifications shall address [~~all~~]each of the PWS's sources and include[~~ the following~~]:

(a) [~~A~~]a discussion of the general types of potential contamination sources within the protection zones;

(b) an analysis that rates the system's susceptibility to contamination as low, medium, or high; and

(c) a statement that the system's complete DWSP [~~p~~]Plans are available to the public upon request.

Examples of means of notifying the public and examples of public notification material are discussed in the "Source Protection User's Guide for [~~Ground Water~~]Groundwater Sources" which may be obtained from DDW.

R309-600-16. Monitoring Reduction Waivers.

(1) Three types of monitoring waivers are available to PWSs. [~~They are: a) reliably and consistently, b) use, and c) susceptibility. The criteria for establishing a reliably and consistently waiver is set forth in R309-205. The criteria for use and susceptibility waivers follow.~~]They are:

(a) reliably and consistently;

(b) use; and

(c) susceptibility.

The criteria for establishing a reliably and consistently waiver is set forth in Rule R309-205. The criteria for use and susceptibility waivers follow.

(2) If a source's DWSP [~~p~~]Plan is due according to the schedule in Section R309-600-3, and is not submitted to DDW, its use and susceptibility waivers for the VOC and pesticide parameter groups[~~,~~(], refer to Subsections R309-205-6(1)(e) and (f); and [~~(~~]Subsections R309-205-6(2)(h) and (i[~~)~~])], will expire unless an exception[~~(~~], refer to Section R309-600-4[~~)~~], for a new due date has been granted. Additionally, current use and susceptibility waivers for the VOC, pesticide, and unregulated parameter groups will expire upon review of a DWSP [~~p~~]Plan, if these waivers are not addressed in the plan. [-]Monitoring reduction waivers must be renewed every six years [~~at the time~~]when the PWSs Updated DWSP Plans are due and be addressed therein.

(3) Use Waivers - If the chemicals within the VOC and[~~/or~~] pesticide parameter [~~group(s) (~~]groups, refer to Rule R309-200 table 200-3 and 200-2[~~)~~], have not been used, disposed, stored, transported, or manufactured within the past five years within zones one, two, and three, the source may be eligible for a use waiver. [-]To qualify for a VOC [~~and/~~]or pesticide use waiver, a PWS must complete the following two steps:

(a) List the chemicals which are used, disposed, stored, transported, and manufactured at each potential contamination source within zones one, two, and three where the use of the chemicals within the VOC and pesticide parameter groups are likely; and

(b) submit a dated statement which is signed by the system's designated person that none of the VOCs and pesticides within these respective parameter groups have been used, disposed, stored, transported, or manufactured within the past five years within zones one, two, and three.

(4) Susceptibility Waivers - If a source does not qualify for use waivers, and if reliably and consistently waivers have not been issued, it may be eligible for susceptibility waivers. [-]Susceptibility waivers tolerate the use, disposal, storage, transport, and manufacture of chemicals within zones one, two, and three as long as the PWS can demonstrate that the source is not susceptible to contamination from them. [~~–~~]To qualify for a VOC [~~and/~~]or pesticide susceptibility waiver, a PWS must[~~ complete the following steps:~~]:

(a) [~~S~~]submit the monitoring results of at least one applicable sample from the VOC [~~and/~~]or pesticide parameter [~~group(s)~~]groups that has been taken within the past six years. [-]A non-detectable analysis for each chemical within the parameter [~~group(s)~~]groups is required;

(b) submit a dated statement from the designated person verifying that the PWS is confident that a susceptibility waiver for the VOC [~~and/~~]or pesticide parameter [~~group(s)~~]groups will not threaten public health; and

(c) verify that the source is developed in a protected aquifer, as defined in Subsection R309-600-6([~~1)(x~~]23), and have a public education program which addresses proper use and disposal practices for pesticides and VOCs which is described in the management sections of the DWSP [~~p~~]Plan.

(5) Special Waiver Conditions - Special scientific or engineering studies or best management practices may be developed to support a request for an exception to [~~paragraph~~]Subsection R309-600-16(4)(c) due to special conditions. [~~–~~]These studies must be approved by the Director before the PWS begins the study.[-] Special waiver condition studies may include:

(a) geology, and construction[~~/~~] or grout seal of the well, to demonstrate geologic protection;

(b) memoranda of agreement which addresses best management practices for VOCs and[~~/or~~] pesticides with industrial, agricultural, and commercial facilities which use, store, transport, manufacture, or dispose of the chemicals within these parameter groups;

(c) public education programs which address best management practices for VOCs and[~~/or~~] pesticides;

(d) contaminant quantities;

(e) affected land area; and[~~/or~~]

(f) fate and transport studies of the VOCs and[~~/or~~] pesticides which are listed as hazards at the PCSs within zones one, two, and three, and any other conditions which may be identified by the PWS and approved by the Director.

KEY: drinking water, environmental health
Date of Last Change: 2024[~~November 6, 2017~~]
Notice of Continuation: March 12, 2020
Authorizing, and Implemented or Interpreted Law: 19-4-104(1)(a)(iv)

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R386-702**	**Filing ID: 56384**

Agency Information

1. Department:	Health and Human Services
Agency:	Population Health, Environmental Epidemiology
Building:	Cannon Health Building
Street address:	288 N 1460 W
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 142100
City, state and zip:	Salt Lake City, UT 84114-2100

Contact persons:		
Name:	**Phone:**	**Email:**
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Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

R386-702. Communicable Disease Rule

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

The purpose of this amendment is to make the Rule R386-702 emergency filing permanent.

On 02/12/2024, an emergency filing for Rule R386-702 went into effect due to a Food and Drug Administration (FDA) reported shortage of erythromycin ophthalmic ointment and in response to health systems in Utah reporting that the shortage was impacting local supply. Without this treatment, infants born in Utah who are at risk for exposure to N. gonorrhoeae may experience adverse health outcomes, including severe eye infections and blindness.

This amendment allows clinicians to use approved alternative treatments during erythromycin ophthalmic ointment shortages.

Additionally, this amendment contains nonsubstantive changes updating citations to the current Utah Code and clarifying language.

4. Summary of the new rule or change:

This rule change will remove outdated clinical guidance and increase the treatment options for healthcare providers by allowing alternative treatment options through Centers for Disease Control and Prevention guidance.

In addition, this filing also updates outdated statutes to coincide with the Department of Health and Human Services code recodification. S.B. 38, S.B. 39, S.B. 40, and S.B. 41 (2023 General Session) combined Title 26, Utah Health Code, and Title 62A, Utah Human Services Code, into a new Title 26B, Utah Health and Human Services Code.

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 because the changes do not affect existing operations.

This rule change adds additional available treatments for health care providers to select for patient care.

The state does not have costs or savings associated with this rule change because providers are not being recommended one alternative treatment over another.

As a result ,there is no anticipated fiscal impact on the state.

B) Local governments:

There is no anticipated cost or savings because the changes do not affect existing operations.

This rule change adds additional available treatments for health care providers to select for patient care.

Local governments do not have costs or savings associated with this rule change because providers are not being recommended one alternative treatment over another.

As a result, there is no anticipated fiscal impact on local governments.

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

There is no anticipated cost or savings because the changes do not affect existing operations. This rule change adds additional available treatments for health care providers to select for patient care. Small businesses do not have costs or savings associated with this rule change because providers are not being recommended one alternative treatment over another. As a result there is no anticipated fiscal impact on small businesses.

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

The proposed rule change does not have a fiscal impact on non-small businesses nor will a service be required of them to implement the amendment.

There is no anticipated cost or savings because the changes do not affect existing operations.

This rule change adds additional available treatments for health care providers to select for patient care.

Non-small businesses do not have costs or savings associated with this rule change because providers are not being recommended one alternative treatment over another.

As a result, there is no anticipated fiscal impact on non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation,

association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
There is no anticipated cost or savings because the changes do not affect existing operations. This rule change adds additional available treatments for health care providers to select for patient care. Other persons do not have costs or savings associated with this rule change because providers are not being recommended one alternative treatment over another. As a result, there is no anticipated fiscal impact on other persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**
There are no anticipated compliance costs or savings because this change will allow providers to pivot to additional treatment options when erythromycin ophthalmic ointment is unavailable. It is not anticipated that obtaining those additional treatment options will be more or less burdensome than obtaining erythromycin ophthalmic ointment.

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

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

H) Department head comments on fiscal impact and approval of regulatory impact analysis:
The Executive Director of the Department of Health and Human Services, Tracy 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-7-202	Section 26B-7-207
Sections 26B-7-316 through 26B-7-324		

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)	Sexually Transmitted Infections Treatment Guidelines
Publisher	Centers for Disease Control
Issue Date	July 23, 2021

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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024
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:**	03/15/2024

R386. Health and Human Services, [~~Disease Control and Prevention~~]Population Health, Environmental Epidemiology.
R386-702. Communicable Disease Rule.
R386-702-1. Purpose Statement.

(1) Sections 26B-7-316 through 26B-7-324 provide authority for sections in this rule as noted, and Sections [~~26-6-3~~]26B-7-202, 26B-7-207, and 26B-1-[~~2-~~]202[~~, and Title 26, Chapter 23b, Detection of Public Health Emergencies Act~~] authorize all other sections of this rule.

(2) This rule outlines a multidisciplinary approach to communicable and infectious disease control and emphasizes reporting, surveillance, isolation, treatment, and epidemiological investigation to identify and control preventable causes of infectious diseases. Reporting requirements and authorizations are specified for communicable and infectious diseases, outbreaks, and unusual occurrence of any disease. Each section has been adopted with the intent of reducing disease morbidity and mortality through the rapid implementation of established practices and procedures.

(3) The successes of medicine and public health dramatically reduced the risk of epidemics and early loss of life due to infectious agents during the twentieth century. However, the emergence of diseases such as Middle Eastern Respiratory Syndrome (MERS), and the rapid spread of diseases such as West Nile virus to the United States from other parts of the world, made possible by advances in transportation, trade, food production, and other factors, highlight the continuing threat to health from infectious diseases. Continual attention to these threats and cooperation among all health care providers, government agencies, and other entities that are partners in protecting the public's health are crucial to maintaining and improv[~~e~~]ing the health of the citizens of Utah.

R386-702-2. Definitions.

(1) "Carrier" means the same as that term is defined in Section [~~26-6-2~~]26B-7-201.

(2) "Communicable disease" means the same as that term is defined in Section [~~26-6-2~~]26B-7-201.

(3) "Contact" means the same as that term is defined in Section [~~26-6-2~~]26B-7-201.

(4) "Epidemic" means the same as that term is defined in Section [~~26-6-2~~]26B-7-201.

(5) "Infection" means the same as that term is defined in Section [~~26-6-2~~]26B-7-201.

(6) "Schools" means the same as that term is defined in Section [~~26-6-2~~]26B-7-201.

(7) "Health care provider" means the same as that term is defined in Section [~~26-6-6~~]26B-7-206.

(8) "Assisted living facilities" means the same as that term is defined in Section [~~26-21-2~~]26B-2-201.

(9) "Nursing care facilities" means the same as that term is defined in Section [~~26-21-2~~]26B-2-201.

(10) "Bioterrorism" means the same as that term is defined in Section [~~26-23b-102~~]26B-7-301.

(11) "Childcare programs" means the same as that term is defined in Section [~~26-39-102~~]26B-2-401.

(12) "Health care facilities" means the same as that term is defined in Section 78B-3-403.

(13) "Mental health facilities" means the same as that term is defined in Section [~~62A-15-602~~]26B-5-301.

(14) "Local health department" means the same as that term is defined in Section R386-80-2.

(15) In addition, for purposes of this rule:

(a) "Blood and plasma center" is defined as a blood bank, blood storage facility, plasma center, hospital, any facility where blood or blood products are collected, or any facility where blood services are provided.

(b) "Care facilities licensed through the Department of Health and Human Services" is described as any facility licensed through the Department of Health and Human Services, and includes adult day care facilities, adult foster care facilities, crisis respite facilities, domestic violence shelters and treatment programs, foster care homes, mental health treatment programs, residential treatment and day treatment facilities for persons with disabilities, substance abuse treatment programs, and youth treatment programs.

(c) "Case" is defined as any person, living or deceased, identified as having a communicable disease, condition, or syndrome that meets criteria for being reportable under this rule, or that is otherwise under public health investigation.

(d) "Clinic" is defined as any facility where a health care provider practices.

(e) "Condition" is defined as an abnormal state of health that may interfere with a person's regular feelings of wellbeing.

(f) "Correctional facility" is defined as a facility that forcibly confines an individual under the authority of the government, including prisons, detention centers, jails, juvenile detention centers.

(g) "Department" is defined as the Utah Department of Health and Human Services.

(h) "Diagnostic facility" is defined as the facility where the case or suspect case was seen and evaluated by a healthcare provider.

(i) "Dispensary" is defined as an office in a school, hospital, industrial plant, or other organization that dispenses medications or medical supplies.

(j) "Electronic case reporting" is defined as the transmission of clinical, diagnostic, laboratory, and treatment related data from reporting entities to the Department in a structured, computer-readable format that reflects comparable content to HL7 CDA[~~(reg trademark)~~] R2 Implementation Guide: Public Health Case Report, Release 2 - US Realm - the Electronic Initial Case Report (eICR). Electronic Initial Case Reporting is a form of electronic reporting.

(k) "Electronic laboratory reporting" is defined as the transmission of laboratory or health related data from reporting entities to the Department using HL7 ORU-R01 2.3.1 or 2.5.1, LOINC, and SNOMED standard message structure and vocabulary. Electronic laboratory reporting is a form of electronic reporting.

(l) "Electronic reporting" is defined as the transmission of laboratory or health related data from reporting entities to the Department in a structured, computer-readable format that reflects comparable content to HL7 messaging.

(m) "Encounter" is defined as an instance of an individual presenting to a health care facility.

(n) "Event" is defined as any communicable disease, condition, laboratory result, syndrome, outbreak, epidemic, or other public health hazard that meets criteria for being reportable under this rule.

(o) "Good Samaritan" is defined as a person who gives reasonable aid to strangers in grave physical distress.

(p) "Invasive disease" is defined as infection occurring in parts of the body where organisms are not normally present, such as the bloodstream, organs, or the meninges.

(q) "Laboratory" is defined as any facility that receives, refers, or analyzes clinical specimens.

(r) "Manual reporting" is defined as the transmission of laboratory or health related data from reporting entities to the Department using processes that require hand keying for data to be incorporated into Department databases.

(s) "Normally sterile site" is defined as a part of the body where organisms are not normally present, such as the bloodstream, organs, or the meninges.

(t) "Outbreak" is defined as the increased occurrence of any communicable disease, health condition, or syndrome in a community, institution, or region; or two or more cases of a communicable disease, health condition, or syndrome in persons with a common exposure.

(u) "Public health hazard" is defined as the presence of an infectious organism or condition in the environment that endangers the health of a specified population.

(v) "Suspect case" is defined as any person, living or deceased, who a reporting entity, local health department, or the Department believes might be a case, but for whom it has not been established that the criteria necessary to become a case have been met.

(w) "SARS-CoV-2 NAAT" is any SARS-CoV-2 Nucleic Acid Amplification Test (NAAT) conducted in a facility certified under CLIA to perform moderate- or high-complexity tests.

(x) "Syndrome" is defined as a set of signs or symptoms that often occur together.

R386-702-3. Reportable Events.

(1) The Department declares the following events to be of concern to public health and reporting of all instances is required or authorized by Sections [~~26-6-6~~]26B-7-202, 26B-7-207, and 26B-1-202[~~ and Title 26, Chapter 23b, Detection of Public Health Emergencies Act~~].

(2) Events reportable by each entity are as follows:

(a) acute flaccid myelitis;

(b) adverse event resulting from smallpox vaccination (vaccinia virus, orthopox virus);

(c) anaplasmosis (Anaplasma phagocytophilum);

(d) anthrax (Bacillus anthracis) or anthrax-like illness caused by Bacillus cereus strains that express anthrax toxin genes;

(e) antibiotic resistant organisms from any clinical specimen that meet the following criteria:

(i) resistant to a carbapenem in:

(A) Acinetobacter species;

(B) Enterobacter species;

(C) Escherichia coli; or

(D) Klebsiella species; or

(ii) Resistant to vancomycin in Staphylococcus aureus (VRSA); or

(iii) demonstrated carbapenemase production in:

(A) Acinetobacter species;

(B) Enterobacter species;

(C) Escherichia coli;

(D) Klebsiella species; or

(E) any other Enterobacteriaceae species;

(f) arbovirus infection, including:

(i) chikungunya virus infection;

(ii) West Nile virus infection; and

(iii) Zika virus infection; including congenital;

(g) babesiosis (Babesia spp.);

(h) botulism (Clostridium botulinum);

(i) brucellosis (Brucella spp.);

(j) campylobacteriosis (Campylobacter spp.);

(k) Candida auris or Candida haemulonii from any body site;

(l) Chagas disease (Trypanosoma cruzi);

(m) chancroid (Haemophilus ducreyi);

(n) chickenpox (varicella zoster virus, VZV, human herpesvirus 3, HHV-3);

(o) chlamydia (Chlamydia trachomatis);

(p) coccidioidomycosis (Coccidioides spp.), also known as valley fever;

(q) Colorado tick fever (Colorado tick fever virus, Coltivirus spp.), also known as American mountain tick fever;

(r) novel coronavirus disease including Middle East respiratory syndrome (MERS-CoV), and [~~S~~]severe acute respiratory syndrome (SARS-CoV);

(s) COVID-19 (SARS-CoV-2);

(t) cryptosporidiosis (Cryptosporidium spp.);

(u) cyclosporiasis (Cyclospora spp., including Cyclospora cayetanensis);

(v) dengue fever (dengue virus);

(w) diphtheria (Corynebacterium diphtheriae);

(x) ehrlichiosis (Ehrlichia spp.);

(y) encephalitis (bacterial, fungal, parasitic, protozoan, and viral);

(z) Shiga toxin-producing Escherichia coli (STEC) infection;

(aa) giardiasis (Giardia lamblia), also known as beaver fever;

(bb) gonorrhea (Neisseria gonorrhoeae), including sexually transmitted and ophthalmia neonatorum;

(cc) Haemophilus influenzae, invasive disease;

(dd) hantavirus infection (Sin Nombre virus);

(ee) hemolytic uremic syndrome, postdiarrheal;

(ff) hepatitis, viral including:

(i) hepatitis A;

(ii) hepatitis B (acute, chronic, and perinatal);

(iii) hepatitis C (acute, chronic, and perinatal);

(iv) hepatitis D; and

(v) hepatitis E;

(gg) human immunodeficiency virus (HIV) infection, including acquired immune deficiency syndrome (AIDS);

(hh) influenza virus infection:

(i) associated with a hospitalization;

(ii) associated with a death in a person under 18 years of age; or

(iii) suspected or confirmed to be caused by a non-seasonal influenza strain;

(ii) Legionellosis (Legionella spp.), also known as Legionnaires' disease;

(jj) leptospirosis (Leptospira spp.);

(kk) listeriosis (Listeria spp., including Listeria monocytogenes);

(ll) Lyme disease (Borrelia burgdorferi, Borrelia mayonii);

(mm) malaria (Plasmodium spp.);

(nn) measles (measles virus), also known as rubeola;

(oo) meningitis (bacterial, fungal, parasitic, protozoan, and viral);

(pp) meningococcal disease (Neisseria meningitidis), invasive;

(qq) mumps (mumps virus);

(rr) mycobacterial infections, including:

(i) tuberculosis (Mycobacterium tuberculosis complex);

(ii) leprosy (Mycobacterium leprae), also known as Hansen's disease; or

(iii) any other mycobacterial infections (Mycobacterium spp.);

(ss) pertussis (Bordetella pertussis);

(tt) plague (Yersinia pestis);

(uu) poliomyelitis (poliovirus), paralytic and nonparalytic;

(vv) psittacosis (Chlamydophila psittaci), also known as ornithosis;

(ww) Q fever (Coxiella burnetii);

(xx) rabies (rabies virus), human and animal;

(yy) relapsing fever (Borrelia spp.), tick-borne and louse-borne;

(zz) rubella (rubella virus), including congenital syndrome;

(aaa) salmonellosis (Salmonella spp.);

(bbb) shigellosis (Shigella spp.);

(ccc) smallpox (Variola major and Variola minor);

(ddd) spotted fever rickettsioses (Rickettsia spp.), including Rocky Mountain spotted fever (Rickettsia rickettsii);

(eee) streptococcal disease, invasive, due to:

(i) Streptococcus pneumoniae;

(ii) group A streptococcus (Streptococcus pyogenes); or

(iii) group B streptococcus (Streptococcus agalactiae);

(fff) Syphilis (Treponema pallidum), including:

(i) any stage;

(ii) congenital; and

(iii) syphilitic stillbirths;

(ggg) tetanus (Clostridium tetani);

(hhh) toxic shock syndrome, staphylococcal (Staphylococcus aureus) or streptococcal (Streptococcus pyogenes);

(iii) transmissible spongiform encephalopathies (prion diseases), including Creutzfeldt-Jakob disease;

(jjj) trichinellosis (Trichinella spp.);

(kkk) tularemia (Francisella tularensis);

(lll) typhoid (Salmonella typhi), cases and carriers;

(mmm) vibriosis (Vibrio spp.), including cholera (Vibrio cholerae);

(nnn) viral hemorrhagic fevers including:

(i) Ebola virus disease (Ebolavirus spp.);

(ii) Lassa fever (Lassa virus); and

(iii) Marburg fever (Marburg virus);

(ooo) yellow fever (yellow fever virus).

(3) Pregnancy is a reportable event for a subset of communicable diseases, and reporting is required even if the communicable disease was reported to public health before the pregnancy. Perinatally transmissible conditions reportable by each entity are as follows:

(i) hepatitis B infection;

(ii) hepatitis C infection;

(iii) HIV infection;

(iv) listeriosis;

(v) rubella;

(vi) syphilis infection; and

(vii) Zika virus infection.

(4) Antimicrobial susceptibility tests reportable by each entity are as follows:

(a) Full panel antimicrobial susceptibility test results, including minimum inhibitory concentration and results suppressed to the ordering clinician, are reportable when performed on the following organisms:

(i) Candida auris or Candida haemulonii from any body site;

(ii) Mycobacterium tuberculosis;

(iii) Neisseria gonorrhoeae;

(iv) Salmonella species;

(v) Shigella species; and

(vi) Streptococcus pneumoniae;

(vii) organisms resistant to a carbapenem in:

(A) Acinetobacter species;

(B) Enterobacter species;

(C) Escherichia coli; or

(D) Klebsiella species;

(viii) organisms resistant to [~~vancomycin in Staphylococcus aureus (~~]VRSA[~~)~~].

(b) Individual carbapenemase test results including positive, negative, equivocal, indeterminate and the method used, are reportable when performed on organisms resistant to a carbapenem, or with demonstrated carbapenemase, in:

(i) Acinetobacter species;

(ii) Enterobacter species;

(iii) Escherichia coli; and

(iv) Klebsiella species.

(c) Antiviral susceptibility test results, including nucleotide sequencing, genotyping, or phenotypic analysis, are reportable when performed on: human immunodeficiency virus (HIV).

(5) Unusual events reportable by each entity include one or more cases or suspect cases of a communicable disease, condition, or syndrome considered:

(a) rare, unusual, or new to Utah;

(b) previously controlled or eradicated;

(c) caused by an unidentified or newly identified organism;

(d) due to exposure or infection that may indicate a bioterrorism event with potential transmission to the public; or

(e) any other infection not explicitly identified in Subsection R386-702-3(2) that public health considers a public health hazard.

(6) Outbreaks, epidemics, or unusual occurrences of events reportable by each entity are as follows~~-~~:

(a) Entities shall report two or more cases or suspect cases, with or without an identified organism, including:

(i) gastrointestinal illnesses;

(ii) respiratory illnesses;

(iii) meningitis or encephalitis;

(iv) infections caused by antimicrobial resistant organisms;

(v) illnesses with suspected foodborne or waterborne transmission;

(vi) illnesses with suspected ongoing transmission in any facility;

(vii) infections that may indicate a bioterrorism event; or

(viii) any other infections not explicitly identified in Subsection R386-702-3(2) that public health considers a public health hazard.

(b) Entities shall report increases or shifts in pharmaceutical sales that may indicate changes in disease trends.

(7) Laboratory results reportable by electronic reporters are as follows:

(a) In addition to laboratory results set forth in Subsections R386-702-3(2) through R386-702-3(6), entities reporting electronically shall include the following laboratory results or laboratory results that provide presumptive evidence of the following communicable diseases:

(i) influenza virus;

(ii) norovirus infection;

(iii) Pseudomonas aeruginosa, resistant to a carbapenem, or with demonstrated carbapenemase production;

(iv) Staphylococcus aureus from a normally sterile site with methicillin testing performed, reported as either methicillin-susceptible Staphylococcus aureus (MSSA) or methicillin-resistant Staphylococcus aureus (MRSA); and

(v) Streptococcal disease, invasive due to all species.

(b) Entities reporting electronically shall include any laboratory results including positive, negative, equivocal, indeterminate, associated with the following tests or conditions:

(i) CD4+ T-Lymphocyte tests, regardless of known HIV status;

(ii) chlamydia;

(iii) Clostridium difficile;

(iv) novel coronavirus COVID-19 (SARS-CoV-2), detected by a SARS-CoV-2 NAAT;

(v) cytomegalovirus (CMV), congenital (infants less than or equal to 12 months of age);

(vi) gonorrhea;

(vii) hepatitis A;

(viii) hepatitis B, including viral loads;

(ix) hepatitis C, including viral loads;

(x) HIV, including viral loads and confirmatory tests;

(xi) liver function tests, including ALT, AST, and bilirubin associated with a viral hepatitis case;

(xii) Lyme disease;

(xiii) respiratory syncytial virus (RSV);

(xiv) syphilis;

(xv) tuberculosis; and

(xvi) Zika virus.

(c) Entities reporting electronically shall report full panel antibiotic susceptibility test results, including minimum inhibitory concentration and results suppressed to the ordering clinician, are reportable when performed on Pseudomonas aeruginosa, resistant to a carbapenem, or with demonstrated carbapenemase.

(d) The Department may, by authority granted through Title 26B, Chapter [~~23b~~]7, Part 2, [~~Detection of Public Health Emergencies Act~~]Detection and Management of Chronic and Communicable Diseases and Public Health Emergencies, identify additional reporting criteria when deemed necessary for the management of outbreaks or identification of exposures.

(e) Non-positive laboratory results reported for the events identified in Subsection R386-702-3(7)(b) will be used for the following purposes:

(i) to determine when a previously reported case becomes non-infectious;

(ii) to identify newly acquired infections through identification of a seroconversion window; or

(iii) to provide information critical for assignment of a case status.

(f) Information associated with a non-positive laboratory result will be kept by the Department for a period of 18 months.

(i) At the end of the 18 month period, if the result has not been appended to an existing case, personal identifiers will be stripped and expunged from the result.

(ii) The de-identified result will be added to a de-identified, aggregate data set.

(iii) The data set will be kept for use by public health to analyze trends associated with testing patterns and case distribution, and identify and establish prevention and intervention efforts for at-risk populations.

(8) Authorized reporting of syndromes and conditions are as follows:

(a) Reporting of encounters for the following syndromes and conditions is authorized by [~~Title~~]Sections 26B-7-202, 26B-7-206, and 26B-7-207[~~, Chapter 23b, Detection of Public Health Emergencies Act~~], unless made mandatory by the declaration of a public health emergency:

(i) respiratory illness, including:

(A) upper or lower respiratory tract infections;

(B) difficulty breathing; or

(C) adult respiratory distress syndrome;

(ii) gastrointestinal illness, including:

(A) vomiting;

(B) diarrhea; or

(C) abdominal pain;

(iii) influenza-like constitutional symptoms or signs;

(iv) neurologic symptoms or signs indicating the possibility of meningitis, encephalitis, or unexplained acute encephalopathy or delirium;

(v) rash illness;

(vi) hemorrhagic illness;

(vii) botulism-like syndrome;

(viii) lymphadenitis;

(ix) sepsis or unexplained shock;

(x) febrile illness (illness with fever, chills or rigors);

(xi) nontraumatic coma or sudden death; and

(xii) other criteria specified by the Department as indicative of disease outbreaks or injurious exposures of uncertain origin.

(b) Reporting of encounters for syndromes and conditions not specified in Subsection R386-702-3(8)(a) is also authorized by Sections [~~Chapter 26 23b~~]26B-7-316 through 26B-7-324, unless made mandatory by the declaration of a public health emergency.

(c) Information included in the reporting of the events identified in Subsections R386-702-3(8)(a) and R386-702-3(8)(b) will be used for the following purposes:

(i) to support early identification and ruling out of public health threats, disasters, outbreaks, suspected incidents, and acts of bioterrorism;

(ii) to assist in characterizing population groups at greatest risk for disease or injury;

(iii) to support assessment of the severity and magnitude of possible threats; or

(iv) to satisfy syndromic surveillance objectives of the Federal Centers for Medicaid and Medicare Meaningful Use incentive program.

(9) Reporting exceptions:

(a) A university or hospital that conducts research studies exempt from reporting AIDS and HIV infection under Section [~~26-6-3.5~~]26B-7-203 shall seek written approval of reporting exemption from the Department institutional review board before the study commencement.

(b) The university or hospital shall submit the following to the HIV Epidemiologist within 30 days of Department institutional review board approval:

(i) a summary of the research protocol, including funding sources and justification for requiring anonymity; and

(ii) written approval from the Department institutional review board.

(c) The university or hospital shall submit a report that includes each of the indicators specified in Subsection [~~26-6-3.5~~]26B-7-203(4)(a) to the HIV Epidemiologist annually during an ongoing research study.

(d) The university or hospital shall submit a final report that includes each of the indicators specified in Subsection [~~26-6-3.5~~]26B-7-203(4)(a) to the HIV Epidemiologist within 30 days of the conclusion of the research study.

(e) Documents can be submitted to the HIV Epidemiologist by fax at (801) 538-9923 or by mail to 288 North 1460 West Salt Lake City, Utah 84116.

R386-702-4. Entities Required to Report.

(1) Section [~~26-6-6~~]26B-7-206 lists those entities required to report cases or suspect cases of the reportable events set forth in Section R386-702-3. This includes:

(a) health care providers, as defined in Section 78B-3-403;

(b) health care facilities, as defined in Section 78B-3-403;

(c) health care facilities operated by the federal government;

(d) mental health facilities, as defined in Section [~~62A-15-602~~]26B-5-301;

(e) care facilities licensed through the Department of Health and Human Services;

(f) nursing care facilities and assisted living facilities, as defined in Section [~~26-21-2~~]26B-2-201;

(g) dispensaries;

(h) clinics;

(i) laboratories;

(j) schools, as defined in Section [~~26-6-2~~]26B-7-201;

(k) childcare programs, as defined in Section [~~26-39-102~~]26B-2-401; and

(l) any individual with a knowledge of others who have a communicable disease.

(2) In addition, the following entities are required to report cases or suspect cases of the reportable events set forth in Section R386-702-3:

(a) blood and plasma donation centers; and

(b) correctional facilities.

(3) When more than one entity is involved in the processing of a clinical specimen; or the diagnosis, treatment, or care of a case or suspect case[~~:~~], each entity involved shall report, even when diagnosis or testing is done outside of Utah.

(4) Health care entities may designate a single person or group of persons to report the events identified in Section R386-702-3 to public health on behalf of their health care providers or medical laboratories, as long as reporting complies with requirements in this rule.

R386-702-5. Mandatory Submission of Clinical Material.

(1) Laboratories shall submit clinical material from cases identified with organisms listed in Subsection R386-702-5(3) to the Utah Department of Health and Human Services, Utah Public Health Laboratory (UPHL) within three working days of identification.

(a) Clinical material is defined as:

(i) A clinical isolate containing the organism for which submission of material is required; or

(ii) If an isolate is not available, material containing the organism for which submission of material is required, in the following order of preference:

(A) a patient specimen;

(B) nucleic acid; or

(C) other laboratory material.

(2) Laboratories submitting clinical material from cases identified with organisms designated by UPHL as potential bioterrorism agents shall first notify UPHL via telephone immediately during business hours at (801) 965-2400, or after hours at (801) 560-6586.

(3) Organisms mandated for standard clinical submission include:

(a) antibiotic resistant organisms from any clinical specimen that meet the following criteria:

(i) resistant to a carbapenem in:

(A) Acinetobacter species;

(B) Enterobacter species;

(C) Escherichia coli;

(D) Klebsiella species; or

(E) Pseudomonas aeruginosa;

(ii) resistant to vancomycin in Staphylococcus aureus (VRSA);

(iii) demonstrated carbapenemase production in:

(A) Acinetobacter species;

(B) Enterobacter species;

(C) Escherichia coli;

(D) Klebsiella species;

(E) any other Enterobacteriaceae species; or

(F) Pseudomonas aeruginosa;

(b) Campylobacter species;

(c) Candida auris or Candida haemulonii from any body site;

(d) Corynebacterium diphtheriae;

(e) Shiga toxin-producing Escherichia coli (STEC), including enrichment or MacConkey broths that tested positive by any method for Shiga toxin;

(f) Haemophilus influenzae, from normally sterile sites;

(g) influenza A virus, unsubtypeable;

(h) influenza virus, [~~(~~]only hospitalized cases[~~ only)~~];

(i) Legionella species;

(j) Listeria monocytogenes;

(k) measles (rubeola) virus;

(l) Mycobacterium tuberculosis complex;

(m) Neisseria meningitidis, from normally sterile sites;

(n) Salmonella species;

(o) SARS-CoV-2 NAAT-positive samples;

(p) Shigella species;

(q) Vibrio species;

(r) West Nile virus;

(s) Yersinia species;

(t) Zika virus; and

(u) any organism implicated in an outbreak when instructed by authorized local or state health department personnel.

(v) mandatory submission requirements may be temporarily suspended or modified by the Department.

(4) Organisms mandated for bioterrorism clinical submission include:

(a) Bacillus anthracis;

(b) Brucella species;

(c) Clostridium botulinum;

(d) Francisella tularensis; and

(e) Yersinia pestis.

(5) Submission of clinical material does not replace the requirement for laboratories to report the event to public health as defined in Sections R386-702-6 and R386-702-7.

(6) For additional information on this process, contact UPHL at (801) 965-2400.

R386-702-6. Reporting Criteria.

(1) Manual reporting criteria is as follows:

(a) Reporting timeframes are as follows:

(i) Entities shall report immediately reportable events by telephone as soon as possible, but no later than 24 hours after identification. Events designated as immediately reportable by the Department include cases and suspect cases of:

(A) anthrax or anthrax-like illness;

(B) botulism, excluding infant botulism;

(C) cholera;

(D) novel coronavirus disease including: Middle East Respiratory Syndrome (MERS), and severe acute respiratory syndrome (SARS);

(E) diphtheria;

(F) Haemophilus influenzae, invasive disease;

(G) hepatitis A;

(H) influenza infection suspected or confirmed to be caused by a non-seasonal influenza strain;

(I) measles;

(J) meningococcal disease, invasive;

(K) plague;

(L) poliovirus, paralytic and nonparalytic;

(M) rabies, human and animal;

(N) rubella, excluding congenital syndrome;

(O) smallpox;

(P) Staphylococcus aureus from any clinical specimen that is resistant to vancomycin;

(Q) transmissible spongiform encephalopathies (prion diseases), including Creutzfeldt-Jakob disease;

(R) tuberculosis;

(S) tularemia;

(T) typhoid, cases and carriers;

(U) viral hemorrhagic fevers;

(V) yellow fever; or

(W) any event described in Subsection R386-702-3(5) or R386-702-3(6).

(ii) Entities shall report events in Subsections R386-702-3(2) through R386-702-3(6) not required to be reported immediately within three working days from the time of identification.

(b) Methods for reporting are as follows:

(i) Entities reporting manually shall send reports to either a local health department or the Department by phone, secured fax, secured email, or mail.

(ii) Contact information for the Department is as follows:

(A) phone: (801) 538-6191 during business hours, or 888-EPI-UTAH (888-374-8824) after hours;

(B) secured fax: (801) 538-9923;

(C) secured email: reporting@utah.gov contact the Department at (801) 538-6191 for information on this option; and

(D) mail: 288 North 1460 West Salt Lake City, Utah 84116.

(iii) A confidential morbidity report form is available at: http://health.utah.gov/epi/reporting/.

(iv) The Department incorporates by reference version 2.2 of the Utah Reporting Specifications for Communicable Diseases, that identifies individual laboratory tests that shall be reported to the Department by manual reporting entities.

(2) Electronic reporting criteria is as follows:

(a) Reporting timeframes are as follows:

(i) Entities that report electronically shall report laboratory results within 24 hours of finalization.

(A) Entities can choose to report in real-time, [~~(~~]as each report is released[~~)~~], or batch reports.

(B) Entities reporting electronically shall report preliminary positive results for the immediately reportable events specified in Subsection R386-702-6(1)(a)(i).

(b) Methods for reporting are as follows:

(i) Laboratories that identify cases or suspect cases shall report to the Department through electronic laboratory reporting, in a manner approved by the Department. Reportable events shall be identified by automated computer algorithms.

(A) Laboratories may substitute electronic reporting if electronic laboratory reporting is not available, with permission from the Department, and in a manner approved by the Department.

(B) Hospitals reporting electronically shall use HL7 2.5.1 message structure, and standard LOINC and SNOMED terminology in accordance with Meaningful Use regulations.

(C) Laboratories reporting electronically shall use HL7 2.3.1 or 2.5.1 message structure, and appropriate LOINC codes designating the test performed.

(D) Entities reporting electronically shall submit local vocabulary codes with translations to the Division of [~~Disease Control and Prevention~~]Population Health Informatics Program, if applicable.

(E) The Department incorporates by reference version 1.3 of the Utah Electronic Laboratory Reporting Specifications for Communicable Diseases, that identifies individual laboratory tests that shall be reported to the Department by electronic reporting entities.

(F) For additional information on this process, refer to https://health.utah.gov/phaccess/public/elr/ or contact the Division of Population Health Informatics Program by phone (801-538-6191) or email (edx@utah.gov).

(ii) Electronic case reporting is an authorized method of reporting to the Department. For additional information on this process, contact the Division of Population Health Informatics Program by phone (801-538-6191) or email (edx@utah.gov).

(A) Entities reporting via electronic case reporting may send any clinical information for an encounter that meets criteria for reporting to public health.

(3) Syndromic reporting criteria is as follows:

Entities reporting syndromes or conditions identified in Subsection R386-702-3(8) shall report as soon as practicable using a schedule approved by the Department.

For information on reporting syndromic data, refer to https://health.utah.gov/phaccess/public/SS/ or contact the Division of Population Health Informatics Program by phone (801-538-6191) or email (edx@utah.gov).

R386-702-7. Required Information.

(1) Entities shall include the following information when reporting events specified in Subsections R386-702-3(2) through R386-702-3(6) to public health:

(a) Patient information:

(i) full name;

(ii) date of birth;

(iii) address, including street address, city, state, and zip code;

(iv) telephone number;

(v) gender;

(vi) race and ethnicity;

(vii) date of onset;

(viii) hospitalization status and date of admission; and

(ix) pregnancy status and estimated due date.

(b) Diagnostic information:

(i) name of the diagnostic facility;

(ii) address, including street address, city, state, and zip code; of the diagnostic facility;

(iii) telephone number of the diagnostic facility;

(iv) full name of the ordering or diagnosing health care provider;

(v) address, including street address, city, state, and zip code; of the ordering or diagnosing health care provider; and

(vi) telephone number of the ordering or diagnosing health care provider.

(c) Reporter information:

(i) full name of the person reporting;

(ii) name of the facility reporting; and

(iii) telephone number of the person or facility reporting.

(d) Laboratory testing information:

(i) name of the laboratory performing the test;

(ii) the laboratory's name for, or description of, the test;

(iii) specimen source;

(iv) specimen collection date;

(v) testing results;

(vi) laboratory test date;

(vii) test reference range; and

(viii) test status including preliminary, final, amended, or corrected.

(2) Entities shall submit reports that are clearly legible and do not contain any internal codes or abbreviations to the Department.

(3) Entities submitting or forwarding a specimen for testing using a laboratory test identified in the Utah Electronic Laboratory Reporting Specifications for Communicable Diseases shall include the patient's full name, date of birth, gender, race, ethnicity, address, and telephone number, so that the performing laboratory can report results to the appropriate public health agency.

(a) If the patient's address is not known by the submitting or forwarding entity, the submitting or forwarding entity shall provide the performing laboratory with the name and address of the facility where the specimen originated.

(4) Entities shall reference http://health.utah.gov/epi/reporting, or contact the Department at (801) 538-6191, for additional reporting specifications, including technical documents, reporting forms, and protocols.

(5) Full reporting of relevant patient information is authorized when reporting events listed in Subsection R386-702-3(8) to public health.

(a) Entities shall include in reports at least the following information, if known:

(i) name of the facility;

(ii) a patient identifier;

(iii) date of visit;

(iv) time of visit;

(v) patient's age;

(vi) patient's gender;

(vii) zip code of patient's residence;

(viii) chief complaint, reason for visit, or diagnosis; and

(ix) whether the patient was admitted to the hospital.

R386-702-8. Confidentiality of Reports.

(1) Reports required by this rule are confidential and are not open to public inspection. Information collected pursuant to this rule shall not be released or made public, except as provided by Sections [~~26-6-27~~]26B-7-217 and 26B-7-220. Penalties for violation of confidentiality are prescribed in Section [~~26-6-29~~]26B-7-219.

(2) Nothing in this rule precludes the discussion of case information with an attending clinician or public health workers.

(3) The Department or local health department shall disclose communicable disease-related information regarding the person who was assisted to the medical provider of a Good Samaritan when that medical provider submits a request to the Department or local health department.

(a) The request must include:

(i) information regarding the occurrence of the accident, fire, or other life-threatening emergency;

(ii) a description of the exposure risk to the Good Samaritan; and

(iii) contact information for the Good Samaritan and their medical provider.

(b) The Department or local health department will ensure that the disclosed information:

(i) includes enough detail to allow for appropriate education and follow-up to the Good Samaritan; and

(ii) ensures confidentiality is maintained for the person who was aided.

(c) No identifying information will be shared with the Good Samaritan or their medical provider regarding the person who was assisted. The Good Samaritan shall receive written information warning them that information regarding the person who was assisted is protected by state law.

R386-702-9. Non-Compliance with Reporting Regulations.

(1) Any person who violates Rule R386-702 may be [~~assessed a~~]subject to penalty or sanction as provided in Sections [~~26-23-6~~]26B-7-219 and 26B-7-316.

(2) Willful non-compliance may result in the Department working with other agencies to incur penalties that may include loss of accreditation or licensure.

(3) Records maintained by reporting entities are subject to review by Department personnel to assure the completeness and accuracy of reporting.

(4) If public health conducts a surveillance project, such as assessing the completeness of case finding or assessing another measure of data quality, the Department may, at its discretion, waive any penalties for participating entities if cases are found that were not originally reported for whatever reason.

R386-702-10. Information Necessary for Public Health Investigation and Surveillance.

(1) Reporting entities shall provide the Department or local health department with any records or other materials requested by public health that are necessary to conduct a thorough investigation.

(a) Subsection (1) includes medical records, additional laboratory testing results, treatment and vaccination history, clinical material, or contact information for cases, suspect cases, or persons potentially exposed.

(b) The Department or local health department shall be granted on-site access to a facility, when such access is critical to a public health investigation.

R386-702-11. General Measures for the Control of Communicable Diseases.

(1) The local health department shall maintain reportable disease records as needed to enforce Chapter [~~6~~]7 of the Health and

Human Services Code and this rule, or as requested by the Utah Department of Health and Human Services.

(2) General control measures for reportable diseases are as follows:

(a) The local health department shall, when an unusual or rare disease occurs in any part of the state or when any disease becomes so prevalent as to endanger the state as a whole, contact the Office of Communicable Diseases, Utah Department of Health and Human Services for assistance, and shall cooperate with the representatives of the Utah Department of Health and Human Services.

(b) The local health department shall investigate and control the causes of epidemic, infectious, communicable, and other disease affecting the public health. The local health department shall also provide for the detection, reporting, prevention, and control of communicable, infectious, and acute diseases that are dangerous or important or that may affect the public health. The local health department may require physical examination and measures to be performed as necessary to protect the health of others.

(c) If, in the opinion of the local health officer it is necessary or advisable to protect the public's health that any person shall be kept from contact with the public, the local health officer shall establish, maintain, and enforce involuntary treatment, isolation, and quarantine as provided by Section [~~26-6-4~~]26B-7-204. Control measures shall be specific to the known or suspected disease agent. Guidance is available from the Office of Communicable Diseases, Utah Department of Health and Human Services, or official reference listed in Section R386-702-18.

(d) The local health department shall take action and measures as may be necessary within Section [~~26-6-4, Title 26, Chapter 6b Communicable Diseases - Treatment, Isolation, and Quarantine - Procedures~~]26B-7-204 Involuntary examination, treatment, isolation, and quarantine, and this rule, to prevent the spread of any communicable disease, infectious agent, or any other condition that pose a public health hazard. Action shall be initiated upon discovery of a case or upon receipt of notification or report of any disease.

(e) A case; suspected case; carrier; contact; other person; or entity, including a facility, hotel, or other organization, shall, upon request of a public health authority, promptly cooperate during:

(i) an investigation of the circumstances or cause of a case, suspected case, outbreak, or suspected outbreak.

(ii) the carrying out of measures for prevention, suppression, and control of a public health hazard, including procedures of restriction, isolation, and quarantine.

([~~5~~]3) Control measures for public food handlers and places where food or drink products are handled or processed are as follows:

(a) A person known to be infected with a communicable disease that can be transmitted by food or drink products, or who is suspected of being infected with such a disease, may not engage in the commercial handling of food or drink products, or be employed on any premises handling those types of products, unless those products are packaged off-site and remain in a closed container until purchased for consumption, until the person is determined by the local health department to be free of communicable disease, or incapable of transmitting the infection.

(b) If a case, carrier, or suspected case of a disease that can be conveyed by food or drink products is found at any place where food or drink products are handled or offered for sale, or if a disease is found or suspected to have been transmitted by these food or drink products, the local health department may immediately prohibit the sale, or removal of drink and other food products from the premises. Sale or distribution of food or drink products from the premises may be resumed when measures have been taken to eliminate the threat to health from the product and its processing[~~, as prescribed by Rule R392-100~~].

(c) If a local health department finds it is not able to completely comply with this rule, the local health officer or their representative shall request the assistance of the Utah Department of Health and Human Services. In such circumstances, the local health department shall provide required information to the Office of Communicable Diseases. If the local health officer fails to comply with this rule, the Utah Department of Health and Human Services shall take action necessary to enforce this rule.

(d) Laboratory analyses that are necessary to identify the causative agents of reportable diseases or to determine adequacy of treatment of patients with a disease shall be ordered by the physician or other health care provider to be performed in or referred to a laboratory holding a valid certificate under the Clinical Laboratory Improvement Amendments of 1988.

R386-702-12. Special Measures for Control of Rabies.

(1) Rationale of treatment is as follows:

A physician must evaluate individually each exposure to possible rabies infection. The physician shall also consult with local or state public health officials if questions arise about the need for rabies prophylaxis.

(2) Management of biting animals is as follows:

(a) A healthy dog, cat, or ferret that bites a person shall be confined and observed at least daily for ten days from the date of bite, regardless of vaccination status, as specified by local animal control ordinances. It is recommended that rabies vaccine not be administered during the observation period. Such animals shall be evaluated by a veterinarian at the first sign of illness during confinement. A veterinarian or animal control officer shall immediately report any illness in the animal to the local health department. If signs suggestive of rabies develop, a veterinarian or animal control officer shall direct that the animal be euthanized, its head removed, and the head shipped under refrigeration, not frozen, for examination of the brain by a laboratory approved by the Utah Department of Health and Human Services.

(b) If the dog, cat, or ferret shows no signs of rabies or illness during the ten day period, the veterinarian or animal control officer shall direct that the unvaccinated animal be vaccinated against rabies at the owner's expense before release to the owner. If a veterinarian is not available, the animal may be released, but the owner shall have the animal vaccinated within 72 hours of release. If the dog, cat, or ferret was appropriately vaccinated against rabies before the incident, the animal may be released from confinement after the 10-day observation period with no further restrictions.

(c) Any stray or unwanted dog, cat, or ferret that bites a person may be euthanized immediately by a veterinarian or animal control officer, if permitted by local ordinance, and the head submitted, as described in Subsection R386-702-12(2)(a), for rabies examination. If the brain is negative by fluorescent-antibody examination for rabies, one can assume that the saliva contained no virus, and the person bitten need not be treated.

(d) Wild animals include raccoons, skunks, coyotes, foxes, bats, the offspring of wild animals crossbred to domestic dogs and cats, and any carnivorous animal other than a domestic dog, cat, or ferret.

(e) Signs of rabies in wild animals cannot be interpreted reliably. If a wild animal bites or scratches a person, the person or

attending medical personnel shall notify an animal control or law enforcement officer. A veterinarian, animal control officer or representative of the Division of Wildlife Resources shall kill the animal at once, without unnecessary damage to the head, and submit the brain, as described in Subsection R386-702-12(2)(a), for examination for evidence of rabies. If the brain is negative by fluorescent-antibody examination for rabies, one can assume that the saliva contained no virus, and the person bitten need not be treated.

(f) Rabbits, opossums, squirrels, chipmunks, rats, and mice are rarely infected and their bites rarely, if ever, call for rabies prophylaxis or testing. Unusual exposures to any animal should be reported to the local health department or the Office of Communicable Diseases, Utah Department of Health and Human Services.

(g) When rare, valuable, captive wild animals maintained in zoological parks approved by the United States Department of Agriculture or research institutions, as defined by Section [~~26-26-1~~]26B-1-236, bite or scratch a human, the Office of Communicable Diseases, Utah Department of Health and Human Services shall be notified. Subsection R386-702-12(2)(e) may be waived by the Office of Communicable Diseases, Utah Department of Health and Human Services if zoological park operators or research institution managers can demonstrate that the following rabies control measures are established:

(i) Employees who work with the animal have received preexposure rabies immunization.

(ii) The person bitten by the animal voluntarily agrees to accept post-exposure rabies immunization provided by the zoological park or research facility.

(iii) The director of the zoological park or research facility shall direct that the biting animal be held in complete quarantine for a minimum of four months for dogs and cats, and six months for ferrets. Quarantine requires that the animal be prohibited from direct contact with other animals or humans.

(h) Any animal bitten or scratched by a wild, carnivorous animal or a bat that is not available for testing shall be regarded as having been exposed to rabies. The animal shall be placed in a strict quarantine for four months for dogs and cats, or six months for ferrets.

(i) For maximum protection of the public health, unvaccinated dogs, cats, and ferrets bitten or scratched by a confirmed or suspected rabid animal shall be euthanized immediately by a veterinarian or animal control officer. If the owner is unwilling to have the animal euthanized, the local health officer shall order that the animal be held in strict isolation in a municipal or county animal shelter or a veterinary medical facility approved by the local health department, at the owner's expense, for at least four months for dogs and cats, and six months for ferrets. The animal shall be vaccinated one month before being released. If any illness suggestive of rabies develops in the animal, the veterinarian or animal control officer shall immediately report the illness to the local health department and the veterinarian or animal control officer shall direct that the animal be euthanized and the head shall be handled as described in Subsection R386-702-12(2)(a).

(j) Dogs, cats, and ferrets that are currently vaccinated and are bitten by rabid animals, shall be revaccinated immediately by a veterinarian and confined and observed by the animal's owner for 45 days. If any illness suggestive of rabies develops in the animal, the owner shall report immediately to the local health department and the animal shall be euthanized by a veterinarian or animal control officer and the head shall be handled as described in Subsection R386-702-12(2)(a).

(k) Livestock exposed to a rabid animal and currently vaccinated with a vaccine approved by the United States Department of Agriculture for that species shall be revaccinated immediately by a veterinarian and observed by the owner for 45 days. Unvaccinated livestock shall be slaughtered immediately. If the owner is unwilling to have the animal slaughtered, the animal shall be kept under close observation by the owner for six months.

(l) Unvaccinated animals other than dogs, cats, ferrets, and livestock bitten by a confirmed or suspected rabid animal shall be euthanized immediately by a veterinarian or animal control officer.

(3) Testing fees at the [~~Utah Public Health Laboratory~~]UPHL are as follows:

(a) Animals being submitted to UPHL for rabies testing must follow criteria defined in The Compendium of Animal Rabies Prevention and Control to be eligible for testing without a fee. Testing of animals that fit this criteria will be eligible for a waived fee for testing. Testing of animals that do not meet this criteria will incur a testing fee as set forth by UPHL.

(b) The following situations will not incur a rabies testing fee if testing is ordered for them through UPHL:

(i) Any bat in an instance where a person or animal has had an exposure, or reasonable probability of exposure, including known bat bites, exposure to bat saliva, a bat found in a room with a sleeping person or unattended child, or a bat found near a child or mentally impaired or intoxicated person.

(ii) Dogs, cats, or ferrets, regardless of rabies vaccination status, if signs suggestive of rabies are documented in them.

(iii) Wild mammals and hybrids that expose persons, pets, or livestock, including skunks, foxes, coyotes, and raccoons, may be tested.

(iv) Livestock may be tested if signs suggestive of rabies are documented.

(v) [~~U~~]DHHS Office of Communicable Diseases staff are available to discuss additional situations that may warrant testing at (801) 538-6191.

(c) The following situations will incur a $95 testing fee if testing is ordered for them through UPHL:

(i) Any dog, cat, or ferret, with unknown or undocumented vaccination history that exposes a person, if signs suggestive of rabies are not documented, or if the animal has not been confined and observed for at least 10 days.

(ii) Dogs, cats, and ferrets: currently vaccinated animals that expose a person, if signs suggestive of rabies are not documented, or animals have not been confined and observed for at least 10 days.

(iii) Regardless of rabies vaccination status, a healthy dog, cat, or ferret that has not exposed a person.

(iv) Small rodents including rats, mice, squirrels, chipmunks, voles, or moles; and lagomorphs including rabbits and hares.

(v) Incomplete paperwork accompanying the sample will also result in a fee for testing; a thorough description of the situation must be included with each sample submission.

(vi) [~~U~~]DHHS Office of Communicable Diseases staff are available to discuss additional situations that may not warrant testing at (801) 538-6191.

(d) If the specimen submitter[~~ing party~~] feels they are charged inappropriately for rabies testing, they may send a letter describing the situation and requesting a waiver for fees to the: Utah Department of Health and Human Services, Office of Communicable Diseases, P.O. Box 142104, Salt Lake City, UT 84114, attention: Zoonotic Diseases Epidemiologist. Information may be submitted

electronically via email to: epi@utah.gov, with a note in the subject line "Attention: Zoonotic Diseases Epidemiologist."

(i) The specimen submitter[~~ing party~~] has 30 days from receipt of the testing fee invoice to file an appeal. The letter must include copies of the original paperwork that was submitted, and a copy of the invoice received, for a waiver to be considered.

(ii) [~~U~~]DHHS and UPHL have 30 days to review information after receipt of an appeal request to make an official decision and notify the submitter.

(iii) [~~U~~]DHHS Office of Communicable Diseases staff are available to discuss questions about testing fees and the appeal process at (801) 538-6191.

(4) Measures for standardized rabies control practices are as follows:

(a) Humans requiring either pre- or post-exposure rabies prophylaxis shall be treated in accordance with the recommendations of the U.S. Public Health Service Immunization Practices Advisory Committee, as incorporated by reference in Subsection R386-702-18(2). A copy of the recommendations shall be made available to licensed medical personnel, upon request to the Office of Communicable Diseases, Utah Department of Health and Human Services.

(b) A physician or other health care provider that administers rabies vaccine shall immediately report serious systemic neuroparalytic or anaphylactic reactions to rabies vaccine through the Vaccine Adverse Event Reporting System (VAERS).

(c) The Compendium of Animal Rabies Prevention and Control, as incorporated by reference in Subsection R386-702-18(5), is the reference document for animal vaccine use.

(d) A county, city, town, or other political subdivision that requires licensure of animals shall also require rabies vaccination as a prerequisite to obtaining a license.

(e) Animal rabies vaccinations are valid only if performed by or under the direction of a licensed veterinarian in accordance with The Compendium of Animal Rabies Prevention and Control.

(f) Agencies and veterinarians administering vaccine shall document each vaccination on the National Association of State Public Health Veterinarians (NASPHV) form number 51, Rabies Vaccination Certificate, that can be obtained from vaccine manufacturers. The agency or veterinarian shall provide a copy of the report to the animal's owner. Computer-generated forms containing the same information are also acceptable.

(g) Animal rabies vaccines may be sold or otherwise provided only to licensed veterinarians or veterinary biologic supply firms. Animal rabies vaccine may be purchased by the Utah Department of Health and Human Services and the Utah Department of Agriculture and Food.

(5) Measures to prevent or control rabies outbreaks are as follows:

(a) The most important single factor in preventing human rabies is the maintenance of high levels of immunity in the pet dog, cat, and ferret populations through vaccination. Vaccination requirements include:

(i) any dog, cat, and ferret in Utah should be immunized against rabies by a licensed veterinarian; and

(ii) local governments should establish effective programs to ensure vaccination of any dogs, cats, and ferrets and to remove strays and unwanted animals.

(b) If the Utah Department of Health and Human Services determines that a rabies outbreak is present in an area of the state, the Utah Department of Health and Human Services may require that:

(i) any dog, cat, and ferret in that area and adjacent areas be vaccinated or revaccinated against rabies as appropriate for each animal's age;

(ii) any such animal be kept under the control of its owner at all times until the Utah Department of Health and Human Services declares the outbreak to be resolved;

(iii) an owner who does not have an animal vaccinated or revaccinated surrender the animal for confinement and possible destruction; and

(iv) such animals found at-large be confined and possibly destroyed.

R386-702-13. Special Measures for Control of Typhoid.

Because typhoid control measures depend largely on sanitary precautions and other health measures designed to protect the public, the local health department shall investigate each case of typhoid and strictly manage the infected individual according to the following:

(1) Standard precautions are required for cases during hospitalization. Use contact precautions for diapered or incontinent patients during illness. Hospital care is desirable during acute illness. Release of the patient from supervision by the local health department shall be based on three or more negative cultures of feces, and of urine in patients with schistosomiasis, taken at least 24 hours apart. Cultures must have been taken at least 48 hours after antibiotic therapy has ended and not earlier than one month after onset of illness as specified in Subsection R386-702-13(6). If any of these cultures is positive, repeat cultures at intervals of one month during the 12-month period following onset until at least three consecutive negative cultures are obtained as specified in Subsection R386-702-13(6). The patient shall be restricted from food handling, child care, and from providing patient care during the period of supervision by the local health department.

(2) Administration of typhoid vaccine is recommended for household members of known typhoid carriers. Household and close contacts of a carrier shall be restricted from food handling, child care, and patient care until two consecutive negative stool specimens, taken at least 24 hours apart, are submitted, or when approval is granted by the local health officer according to local jurisdiction.

(3) If a laboratory or physician identifies a carrier of typhoid, the attending physician shall immediately report the details of the case by telephone to the local health department or the Office of Communicable Diseases, Utah Department of Health and Human Services using the process described in Section R386-702-6. Each infected individual shall submit to the supervision of the local health department. Carriers are prohibited from food handling, child care, and patient care until released in accordance with Subsection R386-702-13(4)(a) or R386-702-13(4)(b). Reports and orders of supervision shall be kept confidential and may be released only as allowed by Subsection [~~26-6-27~~]26B-7-217(2)(c).

(a) Any person who harbors typhoid bacilli for three but less than 12 months after onset is defined as a convalescent carrier. Release from occupational and food handling restrictions may be granted at any time from three to 12 months after onset, as specified in Subsection R386-702-13(6).

(b) Any person who continues to excrete typhoid bacilli for more than 12 months after onset of typhoid is a chronic carrier. Any person who gives no history of having had typhoid or who had the disease more than one year previously, and whose feces or urine are found to contain typhoid bacilli is also a chronic carrier.

(c) If typhoid bacilli are isolated from surgically removed tissues, organs, including the gallbladder or kidney, or from draining lesions such as osteomyelitis, the attending physician shall report the case to the local health department or the Office of Communicable Diseases, Utah Department of Health and Human Services. If the person continues to excrete typhoid bacilli for more than 12 months, the person is a chronic carrier and may be released after satisfying the criteria for chronic carriers in Subsection R386-702-13(6).

(4) The local health department shall report typhoid carriers to the Office of Communicable Diseases, and shall:

(a) require the necessary laboratory tests for release;

(b) issue written instructions to the carrier; and

(c) supervise the carrier.

([~~6~~]5) Requirements for Release of Convalescent and Chronic Carriers: The local health officer or their representative may release a convalescent or chronic carrier from occupational and food handling restrictions only if at least one of the following conditions is satisfied:

(a) for carriers without schistosomiasis, three consecutive negative cultures obtained from fecal specimens authenticated by the attending physician, hospital personnel, laboratory personnel, or local health department staff taken at least one month apart and at least 48 hours after antibiotic therapy has stopped;

(b) for carriers with schistosomiasis, three consecutive negative cultures obtained from both fecal and urine specimens authenticated by the attending physician, hospital personnel, laboratory personnel, or local health department staff taken at least one month apart and at least 48 hours after antibiotic therapy has stopped;

(c) the local health officer or their representative determine that additional treatment such as cholecystectomy or nephrectomy has terminated the carrier state; or

(d) the local health officer or their representative determines the carrier no longer presents a risk to public health according to the evaluation of other factors.

R386-702-14. Special Measures for the Control of Ophthalmia Neonatorum.

(1) Every physician or midwife practicing obstetrics or midwifery shall, within three hours of the birth of a child, instill or cause to be instilled in each eye of such newborn[~~1% silver nitrate solution contained in wax ampules, or tetracycline ophthalmic preparations or~~] 0.5% ophthalmic erythromycin ointment[~~ophthalmic preparations, as these are the only antibiotics of currently proven efficacy in preventing~~] to prevent the development of ophthalmia neonatorum.

(2) If this ointment is not available due to a disruption in distribution or manufacturing, a physician or midwife shall apply or cause to be administered an alternative treatment to infants at risk for exposure to N. gonorrhoeae included in the Centers for Disease Control and Prevention Sexually Transmitted Infections Treatment Guidelines, 2021, incorporated by reference within this rule.[~~The value of irrigation of the eyes with normal saline or distilled water is unknown and not recommended.~~]

R386-702-15. Special Measures for the Control of HIV/AIDS.

If an individual is tested and found to have an HIV infection, the Department or local health department shall provide partner services, linkage-to-care activities, and promote retention to HIV care.

(1) Definitions:

(a) "Partner" is defined as any individual, including a spouse, who has shared needles, syringes, or drug paraphernalia or who has had sexual contact with an HIV infected individual.

(b) "Spouse" is defined as any individual who is the marriage partner of that person at any time within the ten-year period before the diagnosis of HIV infection.

(c) "Linkage to care" is defined by a reported CD4+ T-Lymphocyte test or HIV viral load determination within three months of HIV positive diagnosis.

(d) "Retention to care" is defined by a reported CD4+ T-Lymphocyte test or HIV viral load determination once within a 12-month period.

(3) Partner services include:

(a) confidential partner notification within 30 days of receiving a positive HIV result or when relevant additional information is found to aide in an investigation or case management;

(b) prevention counseling;

(c) testing for HIV;

(d) providing recommendations for testing for other sexually transmitted diseases;

(e) providing recommendations for hepatitis screening and vaccination;

(f) treatment or linkage to medical care on an ongoing basis, as needed; and

(g) linkage or referral to other prevention services and support.

(4) Re-engagement to care includes:

(a) linkage to medical care, on an ongoing basis, as needed;

(b) linkage or referral to other prevention services and support;

(c) confidential partner notification, as needed;

(d) prevention counseling;

(e) providing recommendations for testing for other sexually transmitted diseases;

(f) providing recommendations for hepatitis screening and vaccination;

(g) medication adherence counseling; and

(h) risk reduction counseling.

R386-702-16. Special Measures to Prevent Perinatal and Person-to-Person Transmission of Hepatitis B Infection.

(1) A licensed healthcare provider who provides prenatal care shall routinely test each pregnant woman for hepatitis B surface antigen (HBsAg) at an early prenatal care visit. This section does not apply if the pregnant woman, after being informed of the possible consequences, objects to the test on the basis of religious or personal beliefs.

(2) The licensed healthcare provider who provides prenatal care shall repeat the HBsAg test during late pregnancy for those women who tested negative for HBsAg during early pregnancy, but who are at high risk based on:

(a) evidence of clinical hepatitis during pregnancy;

(b) injection drug use;

(c) occurrence during pregnancy or a history of a sexually transmitted disease;

(d) occurrence of hepatitis B in a household or close family contact; or

(e) the judgment of the healthcare provider.

(3) In addition to other reporting required by this rule, each positive HBsAg result detected in a pregnant woman shall be reported to the local health department or the Department, as specified in Section [~~26-6-6~~]26B-7-206. That report shall [~~indic~~]state

that the woman was pregnant at time of testing if that information is available to the reporting entity.

(4) A licensed healthcare provider who provides prenatal care shall document a woman's HBsAg test results, or the basis of the objection to the test, in the medical record for that patient.

(5) Every hospital and birthing facility shall develop a policy to assure that:

(a) when a pregnant woman is admitted for delivery, or for monitoring of pregnancy status, the result from a test for HBsAg performed on that woman during that pregnancy is available for review and documented in the hospital record;

(b) when a pregnant woman is admitted for delivery, if the woman's test result is not available to the hospital or birthing facility, the mother is tested for HBsAg as soon as possible, but before discharge from the hospital or birthing facility;

(c) if a pregnant woman who has not had prenatal care during that pregnancy is admitted for monitoring of pregnancy status only, and if the woman's test result is not available to the hospital or birthing facility, the mother is tested for HBsAg status before discharge from the hospital or birthing facility;

(d) positive HBsAg results identified by testing performed or documented during the hospital stay are reported as specified in this rule;

(e) infants born to HBsAg positive mothers receive hepatitis B immune globulin (HBIG) and hepatitis B vaccine, administered at separate injection sites, within 12 hours of birth;

(f) infants born to mothers whose HBsAg status is unknown receive hepatitis B vaccine within 12 hours of birth, and if the infant is born preterm with birth weight less than 2,000 grams, that infant also receives HBIG within 12 hours;

(g) if at the time of birth the mother's HBsAg status is unknown and the HBsAg test result is later determined to be positive, that infant receives HBIG as soon as possible but within 7 days of birth; and

(h) [~~hepatitis B immune globulin~~]HBIG administration and birth dose hepatitis B vaccine status of infants born to mothers who are HBsAg positive are reported within 24 hours of delivery to the local health department and Utah Department of Health and Human Services Immunization Program at (801) 538-9450.

(6) Local health departments shall perform the following activities or assure that they are performed:

(a) Females between the ages of 12 and 50 years when an HBsAg positive test result is reported will be screened for pregnancy status within one week of receipt of that lab result.

(b) Infants born to HBsAg positive mothers complete the hepatitis B vaccine series as specified in the "Red Book: 2021-2024 Report of the Committee on Infectious Diseases" 32nd Edition. Elk Grove Village, IL, American Academy of Pediatrics; 2021.

(c) Children born to HBsAg positive mothers are tested for HBsAg and antibody against hepatitis B surface antigen (anti-HBs) at 9 to 12 months of age to monitor the success of therapy and identify cases of perinatal hepatitis B infection. Testing is done at least one month after the final dose of hepatitis B vaccine series is administered, and no earlier than 9 months of age. Children who test negative for HBsAg and do not demonstrate serological evidence of immunity against hepatitis B when tested as described in this subsection receive three additional vaccine doses and are retested as specified in the "Red Book: 2021-2024 Report of the Committee on Infectious Diseases" 32nd Edition. Elk Grove Village, IL, American Academy of Pediatrics; 2021.

(d) HBsAg positive mothers are advised regarding how to reduce their risk of transmitting hepatitis B to others.

(e) Household members and sex partners of HBsAg positive mothers are evaluated to determine susceptibility to hepatitis B infection and if determined to be susceptible, are offered or advised to obtain vaccination against hepatitis B. Identified acute hepatitis B cases shall be investigated by the local health department, and identified household and sexual contacts shall be advised to obtain vaccination against hepatitis B.

(7) Subsections (5) and (6) do not apply if the pregnant woman or the child's guardian, after being informed of the possible consequences, objects to any of the required procedures on the basis of religious or moral beliefs. The hospital or birthing facility shall document the basis of the objection.

(8) Prevention of transmission by individuals with chronic hepatitis B infection.

(a) The Department defines a chronic hepatitis B case as a person that is HBsAg positive, total antibody against hepatitis B core antigen (anti-HBc) positive, if performed, and IgM anti-HBc negative.

(b) An individual with chronic hepatitis B infection shall be advised regarding how to reduce the risk that the individual will transmit hepatitis B to others.

(c) Household members and sex partners of individuals with chronic hepatitis B infection shall be evaluated to determine susceptibility to hepatitis B infection, and if determined to be susceptible, shall be offered or advised to obtain vaccination against Hepatitis B.

R386-702-17. Public Health Emergency.

(1) Declaration of Emergency: With the Governor's and Executive Director's, or in the absence of the Executive Director, the Executive Director's designee, concurrence, the Department or a local health department may declare a public health emergency by issuing an order mandating reporting emergency illnesses or health conditions specified in Section R386-702-3 for a reasonable time.

(2) For purposes of an order issued under this section and during the public health emergency, the following definitions apply.

(a) "Emergency center" means:

(i) a health care facility licensed under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~]Title 26B, Chapter 2, Health Care Facility Licensing and Inspection, that operates an emergency department; or

(ii) a clinic that provides emergency or urgent health care to an average of 20 or more persons daily.

(b) "Encounter" means an instance of an individual presenting at the emergency center who satisfies the criteria in Subsection R386-702-3(2).

(c) "Diagnostic information" means an emergency center's records of individuals who present for emergency or urgent treatment, including the reason for the visit, chief complaint, results of diagnostic tests, presenting diagnosis, and final diagnosis, including diagnostic codes.

(3) The Department shall designate the fewest number of emergency centers as is practicable to obtain the necessary data to respond to the emergency.

(a) Designated emergency centers shall report using the process described in Section R386-702-6.

(b) An emergency center designated by the Department shall report the encounters to the Department by:

(i) allowing Department representatives or agents, including local health department representatives, to review its diagnostic information to identify encounters during the previous day;

(ii) reviewing its diagnostic information on encounters during the previous day and reporting all encounters by 9 a.m. the following day;

(iii) identifying encounters and submitting that information electronically to the Department, using a computerized analysis method, and reporting mechanism and schedule approved by the Department; or

(iv) by other arrangement approved by the Department.

(4) For purposes of epidemiological and statistical analysis, the emergency center shall report on encounters during the public health emergency that do not meet the definition for a reportable emergency illness or health condition. The report shall be made using the process described in Section R386-702-6 and shall include the following information for each such encounter:

(a) facility name;

(b) date of visit;

(c) time of visit;

(d) patient's age;

(e) patient's sex; and

(f) patient's zip code for patient's residence.

(5) If either the Department or a local health department collects identifying health information on an individual who is the subject of a report made mandatory under this section, it shall destroy that identifying information upon the earlier of its determination that the information is no longer necessary to carry out an investigation under this section or 180 days after the information was collected. However, the Department and local health departments shall retain identifiable information gathered under other sections of this rule or other legal authority.

(6) Reporting on encounters during the public health emergency does not relieve a reporting entity of its responsibility to report under other sections of this rule or other legal authority.

R386-702-18. Official References.

Treatment and management of individuals and animals who have or are suspected of having a communicable or infectious disease that must be reported pursuant to this rule shall comply with the following documents, that are incorporated by reference:

(1) American Public Health Association. "Control of Communicable Diseases Manual." 21st ed., Heymann, David L., editor, 2022;

(2) Centers for Disease Control and Prevention. "Human Rabies Prevention---United States, 2008: Recommendations of the Advisory Committee on Immunization Practices." Morbidity and Mortality Weekly Report. 57 (RR03) (2008):1-26, 28;

(3) National Association of State Public Health Veterinarians Committee. "Compendium of Animal Rabies Prevention and Control, 2016." Nasphv.org. National Association of State Public Health Veterinarians, 18 October 2016. Web. http://nasphv.org/Documents/NASPHVRabiesCompendium.pdf;

(4) American Academy of Pediatrics. "Red Book: 2021-2024 Report of the Committee on Infectious Diseases" 32nd Edition. Elk Grove Village, IL, American Academy of Pediatrics; 2021; and

(5) National Association of State Public Health Veterinarians Animal Contact Compendium Committee 2017. "Compendium of Measures to Prevent Disease Associated with Animals in Public Settings, 2017." Journal of the American Veterinary Medicine Association 243 (2017): 1269-292.

KEY: communicable diseases, quarantines, rabies, rules and procedures
Date of Last Change: [~~March 14, 2023~~]2024

Notice of Continuation: March 10, 2021
Authorizing, and Implemented or Interpreted Law: [~~26-6-3; 26-23b;~~]26B-1-202; 26B-7-202; 26B-7-207; 26B-7-316 through 26B-7-324

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Repeal and Reenact		
Rule or Section Number:	**R392-100**	**Filing ID: 56391**

Agency Information

1. Department:	Health and Human Services
Agency:	Population 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
Mariah Noble	385-214-1150	mariahnoble@utah.gov

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

General Information

2. Rule or section catchline:

R392-100. Food Service Sanitation

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

The FDA published a revised version of the Food Code in 2022, but the current effective version of this rule incorporates the 2013 version of FDA Food Code. This proposed change updates the incorporation by reference (IBR) to the 2022 FDA Food Code to ensure that the state food protection policy mirrors the most current national policy.

The IBR provides guidance on food safety, sanitation, and fair dealing that can be uniformly adopted for the retail segment of the food industry.

4. Summary of the new rule or change:

This filing removes three obsolete definitions and updates statutory references and makes changes to adopt the

2022 version of FDA Food Code rather than the 2013 version.

Additionally, it contains language changes to improve readability and ease of use and amends definitions.

The language for variance requests is amended to align with other rules managed by the Department of Health and Human Services (Department).

Subsections related to administrative hearings are amended to allow each local health department to establish its own procedures in accordance with Utah Code and constitutional requirements, which aligns with current practice.

Fiscal Information

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

A) State budget:

There is no anticipated cost or savings to the state budget, as this proposed rule will have no financial impact on how the Department functions or the entities to which this applies.

Specifically, the rule change does not alter the Department's food establishment permitting, inspection, or enforcement responsibilities.

B) Local governments:

The 13 local health departments in Utah enforce Rule R392-100.

There is no anticipated cost or savings to local governments, as this proposed rule will have no financial impact on how the local health departments function or the entities this applies to.

Specifically, the rule change does not alter a local health department's food establishment permitting, inspection, or enforcement responsibilities.

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

Approximately 10,745 small businesses in Utah provide retail food services (NAICS 722513, 722511, 312120, and 445110).

This rule change may have an inestimable non-fiscal cost or inestimable non-fiscal benefit depending on a number of fluctuating variables within each small retail food business.

Specifically, the proposed rule makes the following procedural changes to small retail food business operations:

First, the proposed rule includes changes to address two additional duty requirements for the person in charge to: 1) ensure food employees are properly maintaining the temperatures of food during thawing and 2) to ensure employees are routinely monitoring food temperatures during hot and cold holding. The currently enacted rule requires the person in charge to conduct certain specified duties that include monitoring and daily oversight.

Adding temperature control monitoring of thawing, and hot and cold holding may add an additional inestimable non-fiscal cost or expense depending on whether or not: 1) the food establishment thaws time/temperature controlled for safety (TCS) food; 2) has hot or cold holding equipment; 3) already has a person in charge who actively monitors thawing and hot and cold holding; and 4) how often the business opts to conduct the monitoring to ensure compliance.

Adding temperature control monitoring of thawing, and hot and cold holding may create an inestimable fiscal benefit to the business in the potential reduction or elimination of costs associated with investigation, enforcement including fines, litigation, and damage to business or brand reputation from foodborne illness outbreaks associated with improper thawing and improper temperature control of TCS foods.

Second, the proposed rule includes changes to indicate that procedures for the clean-up of vomiting and diarrheal events for employees shall be written. There is no anticipated cost associated with this proposed rule because the local health departments intend to provide written procedures free of charge.

There may be a nominal inestimable non-fiscal cost if a small retail food business chooses to develop their own written procedures. By taking these protective measures to prevent the spread of disease to their employees, a small retail food business may experience an inestimable non-fiscal benefit to in terms of increased labor productivity.

Third, the proposed rule includes changes to reflect a new cooking time in seconds for ratites, mechanically tenderized and injected meats, ground meat, and raw eggs that are not prepared to consumer's order. The cooking time was changed from 15 seconds to 17 seconds, adding two seconds to the cook time.

The proposed rule also includes changes to reflect a new cooking time in seconds for poultry, baluts, wild game animals, stuffed food or stuffing containing fish, meat, or poultry. The cooking time was changed from 15 seconds to instantaneous (or less than one second), subtracting 15 seconds from the cook time.

Adding two seconds to the cook time of some types of raw meats and taking away 15 seconds to the cook time of some other types of raw meats could create an inestimable non-fiscal cost or inestimable non-fiscal benefit depending on the types and quantities of raw meats each small retail

food business prepares, and those quantities could change daily, weekly, seasonally, or otherwise depending on menu changes. These variables make it very difficult for the Department to determine whether a small retail food business would experience a fiscal cost or a fiscal benefit.

Fourth, the proposed rule includes changes to add an additional exception for fish that is reduced-oxygen packaged (ROP) at retail to bear a label indicating that it is to be kept frozen until time of use. This is not a common practice in Utah, so there are not many food establishments in Utah that package fish in reduced-oxygen packaging at the retail facility. Those that do may already have a label indicating that the product needs to be frozen until time of use, but if not they would need to add a label.

It is not known at this time how many facilities in Utah package fish into reduced-oxygen packaging and whether they currently use a label or have a label that says it needs to be frozen until time of use.

Fifth, the proposed rule requires the small retail food business to inform consumers of major food allergens in unpackaged foods via written means. This means that the small retail food establishment shall create a sign and place it in a conspicuous location to inform consumers of the presence of food allergens.

The Department is unable to estimate the fiscal cost or benefit of this change because some food establishments do not have major food allergens in unpackaged foods, and others already have the required consumer information, so those businesses are not impacted by the proposed change.

Finally, the proposed rule revises the hot water temperature at the hand sink from what it used to be at least 100 degrees Fahrenheit lowering it now to at least 85 degrees Fahrenheit.

This proposed rule could create a fiscal benefit to small retail food business, but it is inestimable due to a number of variables such as the business's current water temperature, number of food handler employees, number of hand sinks, handwashing frequency, volume of hot water used per day, and current utility rates for energy consumption related to water heating services.

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

There are approximately 1,465 non-small businesses in Utah provide retail food services (NAICS 722513, 722511, 312120, and 445110).

This rule proposal may have an inestimable non-fiscal cost or inestimable non-fiscal benefit depending on a number of fluctuating variables within each non-small retail food business.

Specifically, the proposed rule makes the following procedural changes to non-small retail food business operations:
First, the proposed rule includes changes to address two additional duty requirements for the person in charge to:
1) ensure food employees are properly maintaining the temperatures of food during thawing; and
2) to ensure employees are routinely monitoring food temperatures during hot and cold holding.

The currently enacted rule requires the person in charge to conduct certain specified duties that include monitoring and daily oversight.

Adding temperature control monitoring of thawing, and hot and cold holding may add an additional inestimable non-fiscal cost or expense depending on whether or not:
1) the food establishment thaws time/temperature controlled for safety (TCS) food;
2) has hot or cold holding equipment;
3) already has a person in charge who actively monitors thawing and hot and cold holding; and
4) how often the business opts to conduct the monitoring to ensure compliance.

Adding temperature control monitoring of thawing, and hot and cold holding may create an inestimable fiscal benefit to the business in the potential reduction or elimination of costs associated with investigation, enforcement including fines, litigation, and damage to business or brand reputation from foodborne illness outbreaks associated with improper thawing and improper temperature control of TCS foods.

Second, the proposed rule changes requirements to indicate that procedures for the clean-up of vomiting and diarrheal events for employees shall be written. There is no anticipated cost associated with this proposal because the local health departments intend to provide written procedures free of charge.

There may be a nominal inestimable non-fiscal cost if a non-small retail food business chooses to develop their own written procedures. By taking these protective measures to prevent the spread of disease to their employees, a non-small retail food business may experience an inestimable non-fiscal benefit to in terms of increased labor productivity.

Third, the proposed rule includes changes to reflect a new cooking time in seconds for ratites, mechanically tenderized and injected meats, ground meat, and raw eggs that are not prepared to consumer's order. The cooking time was changed from 15 seconds to 17 seconds, adding two seconds to the cook time.

The proposed rule also includes changes to reflect a new cooking time in seconds for poultry, baluts, wild game animals, stuffed food or stuffing containing fish, meat, or poultry. The cooking time was changed from 15 seconds to instantaneous (or less than one second), subtracting 15 seconds from the cook time.

Adding two seconds to the cook time of some types of raw meats and taking away 15 seconds to the cook time of some other types of raw meats could create an inestimable non-fiscal cost or inestimable non-fiscal benefit depending on the types and quantities of raw meats each non-small retail food business prepares, and those quantities could change daily, weekly, seasonally, or otherwise depending on menu changes. These variables make it very difficult for the department to determine whether a non-small retail food business would experience a fiscal cost or a fiscal benefit.

Fourth, the proposed rule includes changes to add an additional exception for fish that is reduced-oxygen packaged (ROP) at retail to bear a label indicating that it is to be kept frozen until time of use. This is not a common practice in Utah, so there are not many food establishments in Utah that package fish in reduced-oxygen packaging at the retail facility.

Those that do may already have a label indicating that the product needs to be frozen until time of use, but if not they would need to add a label. It is not known at this time how many facilities in Utah package fish into reduced-oxygen packaging and whether they currently use a label or have a label that says it needs to be frozen until time of use.

Fifth, the proposed rule requires the non-small retail food business to inform consumers of major food allergens in unpackaged foods via written means. This means that the non-small retail food establishment shall create a sign and place it in a conspicuous location to inform consumers of the presence of food allergens.

The Department is unable to estimate the fiscal cost or benefit of this change because some food establishments do not have major food allergens in unpackaged foods, and others already have the required consumer information, so those businesses are not impacted by the proposed change.

Finally, the proposed rule revises the hot water temperature at the hand sink from what it used to be at least 100 degrees Fahrenheit lowering it now to at least 85 degrees Fahrenheit. This rule proposal could create a fiscal benefit to non-small retail food business, but it is inestimable due to a number of variables such as the business's current water temperature, number of food handler employees, number of hand sinks, handwashing frequency, volume of hot water used per day, and current utility rates for energy consumption related to water heating services.

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

There is no anticipated cost or savings to persons as defined.

This proposed rule adopts the most current national food safety and sanitation standards and will have no financial impact on other persons financially related to retail food establishment function or operation.

Specifically, the proposed rule makes procedural changes to food establishment business operations that can be incorporated without cost.

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

There are no anticipated costs or savings to affected persons.

This rule proposal adopts the current national food safety and sanitation standards and will not impose compliance costs on affected persons.

Specifically, the proposed rule makes procedural changes to food establishment business operations that can be incorporated without cost.

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

Regulatory Impact Table

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

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

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

The Executive Director of the Department of Health and Human Services, Tracy 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

Incorporations by Reference Information

7. Incorporations by Reference:

A) This rule adds the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	2022 Food Code
Publisher	U.S. Food and Drug Administration
Issue Date	January 18, 2023
Issue or Version	2022

B) This rule removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	2013 Food Code (Removed)
Publisher	U.S. Public Health Service / FDA
Issue Date	November 20, 2013
Issue or Version	2013

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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024

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:**	03/15/2024

R392. Health and Human Services, Population Health, Environmental Health.
R392-100. Food Service Sanitation.
[~~R392-100-1. Authority and Purpose.~~

~~(1) Sections 26B-7-402, and 26B-1-202 authorize this rule.~~

~~(2) The purpose of this rule is to safeguard public health and provide consumers with food that is safe, unadulterated, and honestly presented by:~~

~~(a) setting standards for management, personnel, food operations, equipment, and facilities; and~~

~~(b) providing conditions for food establishment plan review, permit issuance, inspection, employee restriction, and permit suspension.~~

~~R392-100-2. Definitions.~~

~~(1) "Agritourism food establishment" has the same meaning as defined in Section 26B-7-401.~~

~~(2) "Department" means the Utah Department of Health and Human Services.~~

~~(3) "FDA Food Code" or "Food Code" means the version of U.S. Public Health Service, Food and Drug Administration, Model Food Code as incorporated by reference with exceptions and amendments in this rule.~~

~~(4) "Food Cart" has the same meaning as defined in Section 11-56-102.~~

~~(5)(a) "Food Truck" has the same meaning as defined in Section 11-56-102.~~

~~(6) "Ice Cream Truck" has the same meaning as defined in Section 11-56-102.~~

~~(7) "Local health department" has the same meaning as defined in Section 26A-1-102.~~

~~(8) "Microenterprise home kitchen" has the same meaning as defined in Section 26B-7-401.~~

~~(9) "Recovery residence" has the same meaning as defined in Subsection 26B-2-101(36).~~

~~(10) "Residential support" has the same meaning as defined in Subsection 26B-2-101(38).~~

~~(11) "Residential treatment" has the same meaning as defined in Subsection 26B-2-101(39).~~

~~R392-100-3. General Requirements.~~

~~(1) The following food service establishments are exempt from the requirements of this rule:~~

~~(a) a food truck;~~

~~(b) a certified or licensed child care facility, including a residence, that provides care for 16 or fewer children;~~

~~(c) a residential treatment program, residential support program, or recovery residence, as defined in this rule and in Rule R392-110, that provides a 24 hour group living environment for between four and 16 individuals unrelated to the owner or provider;~~

~~(d) an agritourism food establishment; and~~

~~(e) a microenterprise home kitchen.~~

(2) A food truck operator shall comply with the requirements of Rule R392-102, Food Truck Sanitation.

(3) Certified or licensed childcare facilities, including residences, that provide care for 16 or fewer children; residential treatment programs; residential support programs; and recovery residences providing a 24-hour group living environment for between four and 16 individuals unrelated to the owner or provider shall comply with the requirements of Rule R392-110, Food Service Sanitation in Residential Care Facilities.

(4) An agritourism food establishment operator shall comply with the requirements of Rule R392-105, Agritourism Food Establishment Sanitation.

(5) A microenterprise home kitchen shall comply with the requirements of Rule R392-106, Microenterprise Home Kitchen Sanitation.

R392-100-4. Incorporation by Reference.

(1) The Department incorporates by reference the following:

(a) Section 402 of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 342; and

(b) The 2013 version of the U.S. Public Health Service, Food and Drug Administration, Model Food Code ("Food Code"), Chapters 1 through 8, Annex 1 Parts 8-6 through 8-9, with the stated exceptions and amendments as established in Subsection R392-100-4(2).

(2) The following subparts of the Food Code are not incorporated into this rule:

(a) Subpart 5-203.15(B);

(b) Subparts 5-402.11(B), (C) and (D);

(c) Subparts 8-302.14(D) and (E);

(d) Subpart 8-304.11(K);

(e) Annex 1, Subpart 8-905.40;

(f) Annex 1, Subparagraphs 8-905.90(A)(1) and (2);

(g) Annex 1, Subpart 8-909-20; and

(h) Annex 1, Subparagraphs 8-911.10(B)(1) and (2).

(3)(a) This rule incorporates by reference Subpart 1-201.10(B) of the Food Code.:

(i) "Core Item(1)" is changed to read, "'Core Item' also referred to as "non-critical" means a provision in the Food Code that is not designated as a Priority Item or a Priority Foundation Item;

(ii) "Food Establishment(2)" is changed to add Paragraph (c) to read:

"(2)(c) A catering operation that is a licensed business entity that operates from a permitted food establishment that contracts with a client for food service to be provided to a client, or the client's guests or customers at a different location. A catering operation may cook or perform final preparation of food at the service location. A catering operation does not include routine services offered at the same location, or a meal that is individually purchased with the exception of cash bars."

(iii) "Food Establishment(3)" is changed to add Subparagraph (h), (i), (j), and (k) to read:

"(3)(h) an agritourism food establishment

(3)(i) a food truck;

(3)(j) a microenterprise home kitchen

(3)(k) a certified or licensed childcare facility, including a residence, that provides care for 16 or fewer children; a residential treatment program; a residential support program; and recovery residence providing a 24-hour group living environment for between four and 16 individuals unrelated to the owner or provider"

(iv) A definition of "Potentially Hazardous Food" is added to read:

"'Potentially Hazardous Food' means the same as 'Time/Temperature Control for Safety Food.'

(v) "Priority Item(1)" is changed to read:

"'Priority Item' also referred to as 'critical 1' means a provision in the Food Code whose application contributes directly to the elimination, prevention or reduction to an acceptable level, hazards associated with foodborne illness or injury and there is no provision that more directly controls the hazard."

(vi) "Priority Foundation Item(1)" is changed to read:

"'Priority Foundation Item' also referred to as 'critical 2' means a provision in the Food Code whose application supports, facilitates or enables one or more priority items."

(b) After Subpart 2-102.12 of the Food Code, a new subpart is added to read:

"2-102.13 Food Employee Training. The person in charge shall obtain training and certification as required under Section 26B-7-412, and Rule R392-101. Food employees shall obtain training in food safety as required under Section 26B-7-413 and Rule R392-103, Food Handler Training and Certificate."

(c) Paragraph 3-201.16(A) of the Food Code is changed to read:

"Except as specified in Paragraph (B), mushroom species picked in the wild shall not be offered for sale or service by a food establishment."

(d) Subpart 3-501.17 of the Food Code is changed to include additional Paragraph (H):

"(H) A date marking system that meets the criteria stated in Paragraph (A) shall use one of two types of date marks, and that date mark must be used consistently throughout the food establishment. The date mark will either be of the date:

(A) before which food must be used as specified in Paragraph (A); or

(B) be the date of Day 1."

(e) Subparagraph 3-501.19(B)(2) of the Food Code is changed to read:

"Only one time marking scheme may be used, and it must be used consistently throughout the food establishment. The food shall be marked with either:

(a) the time food is removed from temperature control; or

(b) the time before which the food shall be cooked and served at any temperature if ready-to-eat, or discarded."

(f) Paragraph 3-603.11(A) of the Food Code is changed to read:

"(A) Except as specified in Paragraphs 3-401.11(C) and 3401.11(D)(4), and under Paragraph 3-801.11(C), if an animal food such as beef, eggs, fish, lamb, pork, poultry, or shellfish is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in ready-to-eat form or as an ingredient in another ready-to-eat food, the permit holder shall inform consumers of the significantly increased risk of consuming such foods by way of a disclosure and reminder, as specified in Paragraphs (B) and (C) using brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means."

(g) After Subpart 4-204.123 of the Food Code a new subpart is added to read:

"4-204.124 Restraint of Pressurized Containers. Carbon dioxide, helium, or other similar pressurized containers shall be restrained or secured to prevent the tanks from toppling."

(h) Subpart 5-101.12 of the Food Code is changed to add:

"The process shall be in accordance with the American Water Works Association (AWWA) C651-2015 for disinfection and testing."

(i) Subpart 5-202.13 of the Food Code is deleted and replaced to read:

"(A) Where the horizontal distance from the water supply inlet to an adjacent single wall or obstruction is greater than three times the diameter of the inlet, or greater than four times for intersecting walls, an air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least twice the diameter of the water supply inlet and may not be less than 25 millimeters (1 inch); and

(B) Where the horizontal distance from the water supply inlet to an adjacent single wall or obstruction is less than three times the diameter of the inlet, or less than four times for intersecting walls, and air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least three times the diameter of the water supply inlet and may not be less than 38 millimeters (1.5 inches)."

(j) Subpart 5-203.14 of the Food Code is changed to read:

"(A) a plumbing system shall be installed to preclude backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use at the food establishment, including on a hose bibb if a hose is attached or on a hose bibb if a hose is not attached, by:

(1) providing an air gap as specified under Subpart 5-202.13; or

(2) installing an approved backflow prevention device as specified under Subpart 5-202.14; and

(B) Each chemical dispenser shall connect to a separate dedicated water supply line, and not a sink faucet."

(k) Paragraph 5-203.15(A) of the Food Code is changed to read:

"(A) If not provided with an air gap as specified under Subpart 5-202.13, an American Society of Safety Engineers (ASSE) 1022 dual check valve with an intermediate vent shall be installed downstream from any copper in the water supply and upstream from any:

(i) carbonated beverage dispenser;

(ii) coffee machine; or

(iii) noncarbonated drink dispenser."

(l) Paragraph 5-402.11(A) of the Food Code is changed to read:

"(A) A direct connection may not exist between the sewage system and a drain originating from equipment in which food, portable equipment, or utensils are placed."

(m) Subpart 6-202.14 of the Food Code is changed to read:

"6-202.14 Toilet Rooms, Enclosed. A toilet room shall be completely enclosed and provided with a solid self-closing door, except where a toilet room:

(A) is located outside a food establishment;

(B) does not open directly into the food establishment such as a toilet room that is provided in a shopping mall; or

(C) does not open directly into the food preparation area, food service area, or a hallway leading directly into a food preparation or food service area."

(n) Paragraph 6-501.115(B) is changed to read:

"(B) Live animals may be allowed in the following situations if the contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles cannot result:

(1) edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;

(2) patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;

(3) In areas that are not used for food preparation and that are usually open for customers, such as dining and sales areas, service animals that are controlled by the disabled employee or person, if a health or safety hazard will not result from the presence or activities of the service animal;

(4) Pets in the common dining areas of institutional care facilities such as nursing homes, assisted living facilities, group homes, or residential care facilities at times other than during meals if:

(a) effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas;

(b) condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present; and

(c) dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service.

(5) In areas that are not used for food preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly confined, such as in a variety store that sells pets or a tourist park that displays animals; and

(6) Dogs other than service animals or patrol dogs in the outdoor patio areas of a food establishment if:

(a) a separate entrance is provided from the outside of the food establishment to the outdoor patio to ensure that a dog will have direct access to the patio without entering the interior food preparation, storage, sales, display, or dining areas of the food establishment;

(b) a dog is not allowed within eight feet of any entrance to an interior area of the food establishment, except as necessary to enter or exit the patio;

(c) signs are conspicuously posted at the entrance of the food establishment and patio to notify patrons that dogs may be on the premises;

(i) The signs shall state: "Notice to patrons, dogs may be on the premises but are restricted to the outdoor patio. Dog owners are responsible for keeping their animal under control at all times."

(ii) Signs shall be at least 8" x 10" in size, and the lettering shall be high contrast and at least 5/8" in height.

(d) doors equipped with self-closing devices are provided at all entrances to the outdoor patio from the interior of the food establishment;

(e) no food preparation is done in the outdoor patio area, except that a beverage glass may be filled on the patio from a pitcher or other container that has been filled or otherwise prepared inside the food establishment;

(f) the outdoor patio area is continuously maintained free of visible dog hair and other dog related wastes or debris;

(g) while on duty, wait staff, servers, or food employees do not care for or handle a dog that may be present;

(h) a dog is kept on a leash and remains in the control of the patron while on the outdoor patio;

(i) a dog is wearing a collar or harness with a rabies tag attached to it;

(j) a dog is not allowed on a chair, table, countertop, or similar surface in the outdoor patio area; and

(k) a dog does not have contact with any of the food establishment's condiments, equipment, or reusable utensils."

(o) Subpart 8-103.10 Modifications and Waivers is changed to read:

"(A) The local health department may grant a variance by modifying or waiving the requirements of FDA Food Code if in the opinion of the local health department a health hazard or nuisance will not result from the variance. If a variance is granted, the local health department shall retain the information specified under Subpart 8-103.11 in its records for the food establishment.

(B) A copy of any variance or waiver issued by the local health department and the documentation required in Subpart 8-103.11 shall be provided to the Department, Environmental Sanitation Program within five working days of issuance.

(C) A variance or waiver intended for a food establishment which is of a chain with stores in more than one local health department jurisdiction in the state shall be approved by the Department before issuance."

(p) Subpart 8-103.11 is changed to add Paragraph (D) to read:

"(D) In addition, a variance from Subpart 3-301.11 may be issued only when:

(1) the variance is limited to a specific task or workstation;

(2) the applicant has demonstrated good cause why Subpart 3-301.11 cannot be met;

(3) suitable utensils are used to the fullest extent possible with ready-to-eat foods in the rest of the establishment; and

(4) the applicant can demonstrate active managerial control of this risk factor at all times."

(q) Paragraph 8-302.14(C) is changed to read:

"A statement specifying whether the food establishment is mobile or stationary and temporary or permanent."

(r) Paragraph 8-304.10(A) is changed to read:

"(A) Upon request, the local health department shall provide a copy of Rule R392-100 according to the policy of the local health department."

(s) Subparagraph 8-401.10(B)(2) is changed to read:

"(2) The food establishment is assigned a less frequent inspection frequency based on a written risk-based inspection schedule that is being uniformly applied throughout the jurisdiction."

(t) Subpart 8-501.10 is changed to read:

"(B) Requiring appropriate medical examinations, including collection of specimens for laboratory analysis, of a suspected food employee or conditional employee; and

(C) Meeting reporting requirements under Communicable Disease Rule R386-702 and Injury Reporting Rule R386-703."

(u) Annex 1,Subpart 8-601.10 is changed to read:

"Due process and equal protection shall be afforded as required by law in all enforcement and regulatory actions."

(v) Annex 1, Subpart 8-801.30 is changed to read;

"Service is effective when the notice is served or when service is made as specified in Paragraph 8-801.20(B)."

(w) Annex 1,Subpart 8-903.10 is changed to read:

"8-903.10 Impoundment of Adulterated Food Products Authorized.

(A) The impoundment of adulterated food is authorized under Section 26B-7-414.

(B) The local health department may impound, by use of a hold order, any food product found in places where food or drink is handled, sold, or served to the public, but is found or is suspected of being adulterated and unfit for human consumption.

(C) Upon five days' notice and a reasonable opportunity for a hearing to the interested parties, to condemn and destroy the same if deemed necessary for the protection of the public health.

(D) If the local health department has reasonable cause to believe that the hold order will be violated, or finds that the order is violated, the local health department may remove the food that is subject to the hold order to a place of safekeeping.

(E) Within the limits set in Paragraphs (B), (C), and (D), the local health department may impound, by use of a hold order, molluscan shellfish that are not tagged or labeled according to Paragraph 3-202.18(A) of FDA Food Code. Other actions may be taken in accordance with Paragraph 3-202.18(B) of Food Code."

(x) Annex 1, Subpart 8-903.60 is changed to read:

"The local health department may examine, sample, and test food to determine its compliance with Food Code in Subpart 8-402.11."

(y) Annex 1, Subpart 8-903.90 is changed to read:

"The local health department shall issue a notice of release from a hold order and shall physically remove the hold tags, labels, or other identification from the food if the hold order is vacated."

(z) Annex 1 Subpart 8-904.30 heading is changed to read, 8-904.30 Contents of the Summary Suspension Notice.

(aa) Annex 1, Paragraph 8-905.10(A) is changed to read:

"(A) A person who receives a notice of hearing shall file a response within 10 calendar days from the date of service. Failure to respond may result in license suspension, license revocation, or other administrative penalties."

(ab) Annex 1, Subpart 8-905.20 is changed to read:

"A response to a hearing notice or a request for a hearing as specified in Subpart 8-905.10 shall be in written form and contain the following:

(A) Response to a notice of hearing must include:

(1) An admission or denial of each allegation of fact;

(2) A statement as to whether the respondent waives the right to a hearing;

(3) A statement of defense, mitigation, or explanation concerning all claims; and

(4) A statement as to whether the respondent wishes to settle some or all claims made by the local health department.

(B) A request for hearing must include:

(1) A statement of the issues of fact specified in Subpart 8-905.30 Paragraph (B) for which a hearing is requested; and

(2) A statement of defense, mitigation, denial, or explanation concerning each allegation of fact.

(C) Witnesses - In addition to the above requirements, if witnesses are requested, the response to a notice of hearing and a request for hearing must include the name, address, telephone number, and a brief statement of the expected testimony for each witness.

(D) Legal Representation - Legal counsel is allowed, but not required. All documents filed by the respondent must include the name, address, and telephone number of the respondent's legal counsel, if any."

(ac) Annex 1, Subparagraph 8-905.50(A)(1) is changed to read:

"(1) Except as provided in Paragraph (B) of this Subpart, within 5 calendar days after receiving a written request for an appeal hearing from:"

(ad) Annex 1, Subparagraph 8-905.50(A)(2) is changed to read:

"(2) Within 30 calendar days after the service of a hearing notice to consider administrative remedies for other matters as

~~specified in Subpart 8-905.10(C) or for matters as determined necessary by the local health department."~~

~~(ae) Annex 1, Subpart 8-905.60 heading is changed to read:~~

~~"8-905.60 Notice of Hearing Contents."~~

~~(af) Annex 1, Subpart 8-905.80 heading is changed to read:~~

~~"8-905.80 Expeditious and Impartial Hearing."~~

~~(ag) Annex 1, Subpart 8-905.90 heading is changed to read:~~

~~"8-905.90 Confidentiality of Hearing and Proceedings."~~

~~(ah) Annex 1, Paragraph 8-905.90(A) is changed to read:~~

~~"(A) Hearings will be open to the public unless compelling circumstances, such as the need to discuss a person's medical or mental health condition, a food establishment's trade secrets, or any other matter private or protected under federal or state law."~~

~~(ai) Subpart 8-906.30 Paragraph (B) is changed to read:~~

~~"(B) Unless a party appeals to the head of the local health department within 10 calendar days of the hearing or a lesser number of days specified by the hearing officer."~~

~~(aj) Annex 1, Subpart 8-907.60 is changed to read:~~

~~"Documentary evidence may be received in the form of a copy or excerpt if provided to the hearing officer and opposing party before the hearing as ordered by the hearing officer."~~

~~(ak) Annex 1, Subpart 8-908.20 is changed to read:~~

~~"Respondents accepting a consent agreement waive their rights to a hearing on the matter, including judicial review."~~

~~(al) Annex 1, Subparagraphs(B)(1) and (2) are deleted and Paragraph 8-911.10(B) is changed to read:~~

~~"(B) Any person who violates this rule may be assessed a civil penalty as provided in Section 26B-1-224."~~

~~(am) Annex 1, Subpart 8-913.10 headline is changed to read:~~

~~"8-913.10 Petitions, Penalties, Contempt, and Continuing Violations."~~

~~(an) Annex 1, Paragraph 8-913.10(B) is changed to read:~~

~~"In addition to any criminal fines and sentences imposed as specified in Paragraph 8-911.10, or to being enjoined as specified in Paragraph 8-912.10, a person who violates a provision of this code, any rule or regulation adopted in accordance with law related to food establishments within the scope of this code, or to any term, condition, or limitation of a permit issued as specified in Paragraphs 8-303.10 and 8-303.20 is subject to a civil penalty not exceeding $5,000."~~

~~(ao) Annex 1, Subpart 8-913.10 is changed to add Paragraph (D) to read:~~

~~"(D) The adjudicative body, upon proper findings, shall assess violators a fee for each day the violation remains in contempt of its order."~~

~~R392-100-5. Construction Standards.~~

~~The food establishment shall be designed, constructed, maintained, and operated to meet the requirements of Title 15A, State Construction and Fire Codes Act.~~]

R392-100-1. Authority and Purpose.

(1) Sections 26B-1-202, and 26B-7-402 authorize this rule.

(2) The purpose of this rule is to safeguard public health and provide consumers with food that is safe, unadulterated, and honestly presented by:

(a) setting standards for management, personnel, food operations, equipment, and facilities; and

(b) providing conditions for food establishment plan review, permit issuance, inspection, employee health, and permit enforcement.

R392-100-2. Definitions.

(1) "Agritourism food establishment" has the same meaning as defined in Section 26B-7-401.

(2) "Department" means the Department of Health and Human Services.

(3) "FDA Food Code" or "Food Code" means the version of U.S. Public Health Service, Food and Drug Administration, Model Food Code as incorporated by reference with exceptions and amendments in this rule.

(4) "Local health department" has the same meaning as defined in Section 26A-1-102.

(5) "Microenterprise home kitchen" has the same meaning as defined in Section 26B-7-401.

(6) "Mobile food business" means a food truck or food cart as defined in Rule R392-102

(7) "Plumbing Code" means International Plumbing Code as incorporated and amended in Title 15A, State Construction and Fire Codes Act.

(8) "Recovery residence" has the same meaning as defined in Subsection 26B-2-101(36).

(9) "Residential support program" has the same meaning as defined in Subsection 26B-2-101(38).

(10) "Residential treatment" has the same meaning as defined in Subsection 26B-2-101(39).

R392-100-3. General Requirements.

(1) The following food service establishments are exempt from the requirements of this rule:

(a) a mobile food business;

(b) a certified or licensed child care facility, including a residence, that provides care for 16 or fewer children;

(c) a residential treatment program, residential support program, or recovery residence, as defined in this rule and in Rule R392-110, that provides a 24-hour group living environment for between four and 16 individuals unrelated to the owner or provider;

(d) an agritourism food establishment; and

(e) a microenterprise home kitchen.

(2) A mobile food business operator shall comply with Rule R392-102.

(3) The following shall comply with Rule R392-110:

(a) certified or licensed childcare facilities, including residences, that provide care for 16 or fewer children;

(b) residential treatment programs;

(c) residential support programs; and

(d) recovery residences providing a 24-hour group living environment for between four and 16 individuals unrelated to the owner or provider.

(4) An agritourism food establishment operator shall comply with Rule R392-105.

(5) A microenterprise home kitchen shall comply with Rule R392-106.

R392-100-4. Incorporation by Reference.

(1) The department incorporates by reference the following:

(a) Section 402 of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 342; and

(b) The 2022 version of the U.S. Food and Drug Administration Food Code (Food Code), Chapters 1 through 8, Annex 1 Parts 8-6 through 8-9, with the stated exceptions and amendments as established in Subsections R392-100-4(2) and R392-100-4(3).

(2) The following provisions of the Food Code are not incorporated into this rule:

(a) Paragraph 5-203.15(B);

(b) Paragraphs 5-402.11(B), (C) and (D);

(c) Section 8-302.14;

(d) Paragraph 8-304.11(K);

(e) Annex 1, Section 8-909-20; and

(f) Annex 1, Paragraph 8-911.10(B).

(3)(a) This rule incorporates by reference Paragraph 1-201.10(B) of the Food Code with the following amendments:

(i) "Core Item(1)" is amended to read, "'Core Item' also referred to as "non-critical" means a provision in the Food Code that is not designated as a Priority Item or a Priority Foundation Item;

(ii) "Food Establishment(2)" is amended to add Subparagraph (c) to read:

"(2)(c) A catering operation that is a licensed business entity that operates from a permitted food establishment that contracts with a client for food service to be provided to a client, or the client's guests or customers at a different location. A catering operation may cook or perform final preparation of food at the service location. A catering operation does not include routine services offered at the same location or a meal that is individually purchased with the exception of cash bars."

(iii) "Food Establishment(3)" is amended to add Subparagraph (h), (i), (j), (k), (l), (m), and (n) to read:

"(3)(h) an agritourism food establishment

(3)(i) a mobile food business;

(3)(j) a microenterprise home kitchen

(3)(k) a certified or licensed childcare facility, including a residence, that provides care for 16 or fewer children;

(3)(l) a residential treatment program;

(3)(m) a residential support program; and

(3)(n) a recovery residence providing a 24-hour group living environment for between four and 16 individuals unrelated to the owner or provider."

(iv) "Person in charge" is amended to read:

"'Person in charge' means:

(1) the certified food safety manager; or

(2) a designated individual who is:

(a) knowledgeable in:

(i) day-to-day operations of the food establishment;

(ii) foodborne disease prevention principles; and

(iii) the requirements of this rule;

(b) responsible for monitoring and managing food safety operations; and

(c) authorized to take appropriate preventive and corrective actions to ensure compliance with this rule."

(v) A definition of "potentially hazardous food" is added to read:

"'Potentially hazardous food' means the same as 'time/temperature control for safety food.'"

(vi) "Priority Item(1)" is amended to read:

"'Priority item', also referred to as 'critical 1', means a provision in the Food Code that contributes directly to the elimination, prevention, or reduction to an acceptable level, hazards associated with foodborne illness or injury and there is no other provision that more directly controls the hazard."

(vii) "Priority Foundation Item(1)" is amended to read:

"'Priority foundation item', also referred to as 'critical 2', means a provision in the Food Code that supports, facilitates, or enables one or more Priority Items."

(viii) A definition of "small producer" is added to read:

"'Small producer' has the same meaning as provided in Subsection 4-4-103(11)."

(b) Paragraph 2-102.12(A) of the Food Code is amended to read:

"(A) At least one employee who has supervisory and management responsibility and the authority to direct and control food preparation and service shall be a certified food safety manager who has completed training and obtained certification as required under Section 26B-7-412 and Rule R392-101."

(c) After Section 2-102.12 of the Food Code, a new section is added to read:

"2-102.13 Food Employee Training. Food employees shall complete training in food safety as required under Section 26B-7-413 and Rule R392-103."

(d) Paragraph 3-201.16(A) of the Food Code is amended to read:

"Except as specified in Paragraph (B), mushroom species picked in the wild shall not be offered for sale or service by a food establishment."

(e) Section 3-202.13 of the Food Code is amended to read:

"(A) Shell eggs shall be received in a clean and sound condition.

(B) Except for shell eggs that are purchased from a small producer, shell eggs may not exceed the restricted egg tolerances for U.S. Consumer Grade B as specified by Rule R70-410.

(C) Shell eggs may not be addled or moldy, and may not contain any:

(1) black spot;

(2) black rot;

(3) white rot;

(4) blood ring;

(5) adherent yolk; or

(6) bloody or green albumen."

(f) Section 5-101.12 of the Food Code is amended to read:

"A drinking water system shall be flushed and disinfected before being placed in service after construction, repair, or modification and after an emergency situation, such as a flood, that may introduce contaminants to the system. This process shall be completed in accordance with the American National Standards Institute (ANSI) and American Water Works Association (AWWA) C651-14 (February 1, 2015) for disinfection and testing."

(g) Section 5-202.13 of the Food Code is amended to label the existing paragraph "(A)" and include Paragraph (B) to read:

"(B) Where the horizontal distance from the water supply inlet to an adjacent single wall or obstruction is less than three times the diameter of the inlet, or less than four times for intersecting walls, an air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least three times the diameter of the water supply inlet and may not be less than 38 millimeters (1.5 inches)."

(h) Section 5-202.14 of the Food Code is amended to read:

"A backflow or backsiphonage prevention device shall be constructed, installed, and tested according to the requirements in Plumbing Code. Each backflow or backsiphonage prevention device shall be maintained in good working order."

(i) Section 5-203.14 of the Food Code is amended to read:

"(A) A plumbing system shall be installed to preclude backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use at the food establishment, including on a hose bibb if a hose is attached or on a hose bibb if a hose is not attached, by:

(1) providing an air gap as specified under Section 5-202.13; or

(2) installing an approved backflow prevention device as specified under Section 5-202.14; and

(B) Each chemical dispenser shall connect to a separate dedicated water supply line, and not downstream of an atmospheric vacuum breaker."

(j) Paragraph 5-203.15(A) of the Food Code is amended to read:

"(A) If not provided with an air gap as specified under Section 5-202.13, an American Society of Safety Engineers (ASSE) 1022 dual check valve with an intermediate vent shall be installed downstream from any copper in the water supply and upstream from any:

(i) carbonated beverage dispenser;

(ii) coffee machine; or

(iii) noncarbonated beverage dispenser."

(k) Paragraph 5-402.11(A) of the Food Code is amended to read:

"(A) A direct connection may not exist between the sewage system and a drain originating from equipment in which food, portable equipment, or utensils are placed."

(l) Section 6-202.14 of the Food Code is amended to read:

"A toilet room shall be completely enclosed and provided with a solid self-closing door, except where a toilet room:

(A) is located outside a food establishment;

(B) does not open directly into the food establishment such as a toilet room that is provided in a shopping mall; or

(C) does not open directly into the food preparation area, food service area, or a hallway leading directly into a food preparation or food service area."

(m) Paragraph 6-501.115(B) is amended to read:

"(B) Live animals may be allowed in the following situations if the contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles can not result:

(1) edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;

(2) patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;

(3) in areas that are not used for food preparation and that are usually open for customers, such as dining and sales areas, service animals that are controlled by the disabled employee or person, if a health or safety hazard will not result from the presence or activities of the service animal;

(4) pets in the common dining areas of institutional care facilities such as nursing homes, assisted living facilities, group homes, or residential care facilities at times other than during meals if:

(a) effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas;

(b) condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present; and

(c) dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service.

(5) in areas that are not used for food preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly confined, such as in a variety store that sells pets or a tourist park that displays animals; and

(6) dogs other than service animals or patrol dogs in the outdoor patio areas of a food establishment if:

(a) a separate entrance is provided from the outside of the food establishment to the outdoor patio to ensure that a dog will have direct access to the patio without entering the interior food preparation, storage, sales, display, or dining areas of the food establishment;

(b) a dog is not allowed within eight feet of any entrance to an interior area of the food establishment, except as necessary to enter or exit the patio;

(c) signs that meet the following criteria are conspicuously posted at the entrance of the food establishment and patio to notify patrons that dogs may be on the premises;

(i) state: "Notice to patrons, dogs may be on the premises but are restricted to the outdoor patio. Dog owners are responsible for keeping their animal under control at all times."; and

(ii) are at least 8 inches by 10 inches in size with lettering that is high contrast and at least 5/8 of an inch in height;

(d) doors equipped with self-closing devices are provided at each door to the outdoor patio from the interior of the food establishment;

(e) no food preparation is done in the outdoor patio area, except that a beverage glass may be filled on the patio from a pitcher or other container that has been filled or otherwise prepared inside the food establishment;

(f) the outdoor patio area is continuously maintained free of visible dog hair and other dog related wastes or debris;

(g) while on duty, wait staff, servers, or food employees do not care for or handle a dog that may be present;

(h) the dog is kept on a leash and remains in the control of the patron while on the outdoor patio;

(i) the dog is wearing a collar or harness with a rabies vaccination tag attached to it;

(j) the dog is not allowed on a chair, table, countertop, or similar surface in the outdoor patio area; and

(k) the dog does not have contact with any of the food establishment's condiments, equipment, or reusable utensils."

(n) Section 8-103.10 of the Food Code is amended to label the existing paragraph "(A)" and include Paragraph (B) to read:

"(B) A food establishment seeking a variance from Food Code requirements that has a retail food facility location in more than one local health department jurisdiction in the state shall submit a variance request, as described in Subsection R392-100-4(3)(o), to the department."

(o) Section 8-103.11 of the Food Code is amended to read:

"Before a variance from a requirement of this code is approved, the person requesting the variance shall provide the following information, which shall be retained in the regulatory authority's file on the food establishment:

(a) the name of the business for which the variance is being requested;

(b) a designated point of contact and contact information of the business for which the variance is being requested;

(c) the location of the facility or establishment for which the variance is being requested;

(d) the citation of each Food Code section or paragraph for which the variance is being requested;

(e) a statement as to why the applicant cannot comply with the Food Code section or subsection for 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 code will be met and the reasons why the public health or safety, or the environment, would not be endangered or jeopardized if the variance were to be granted;

(h) technical justification or a detailed explanation of the variance conditions that provide the protection of public health and safety, and the environment, for each applicable Food Code section or paragraph;

(i) a full description of any policies, procedures, active managerial controls, or equipment that the applicant proposes to use to rectify any potential increase in health or safety risks created by granting the variance; and

(j) operation and maintenance requirements of the variance condition including a HACCP plan if required as specified under Paragraph 8-201.13(A) that includes the information specified under Section 8-201.14 as it is relevant to the variance requested."

(p) Section 8-302.14 of the Food Code is amended to read:

(i) "The application, in conjunction with any supplemental risk assessment documents, shall include:

(A) the name, mailing address, email address if applicable, telephone number, and signature of the person applying for the permit and the name, mailing address, and location of the food establishment;"

(ii) Paragraphs 8-302.14(B), 8-302.14(C), 8-302.14(D), 8-302.14(E), 8-302.14(F), 8-302.14(G), and 8-302.14(H) of the Food Code are not amended.

(q) Paragraph 8-304.10(A) is amended to read:

"(A) At the time a permit is first issued, the local health department shall provide to the permit holder a notice or a referral regarding how to access a copy of FDA Food Code adopted in Rule R392-100, according to the policy of the local health department."

(r) Subparagraph 8-401.10(B)(2) is amended to read:

"(2) The food establishment is assigned a less frequent inspection frequency based on a written risk-based inspection schedule that is being uniformly applied throughout the jurisdiction."

(s) Section 8-501.10 is amended to add Paragraph (C) to read:

"(C) Complying with reporting requirements specified in Rule R386-702 and Rule R386-703."

(t) Annex 1, Section 8-601.10 is amended to read:

"Due process and equal protection shall be afforded as required by law in all enforcement and regulatory actions."

(u) Annex 1, Section 8-801.30 is amended to read;

"(A) Service is effective when the notice is served or when service is made as specified in Paragraph 8-801-20(B).

(B) A local health department may establish its own service and notice procedures in accordance with Utah Code and constitutional requirements to supersede the requirements in Paragraph 8-801.30(A)."

(v) Annex 1, Section 8-903.10 is amended to add Paragraph (C) to read:

"(C) A local health department is authorized to impound adulterated food products as provided by Section 26B-7-414."

(w) Annex 1, Section 8-903.60 is amended to read:

"A local health department may examine, sample, and test food to determine its compliance with the Food Code."

(x) Annex 1, Paragraph 8-905.10(A) is amended to read:

"(A) A person who receives a notice of hearing shall file a response within ten calendar days from the date of service. Failure to respond may result in license suspension, license revocation, or other administrative penalties."

(y) Annex 1, Paragraph 8-905.10 is amended to add Paragraph (E) to read:

"(E) A local health department may establish its own administrative hearing basis and time for response requirements in accordance with Utah Code and constitutional requirements to supersede the requirements in Paragraphs 8-905.10(A), 8-905.10(B), 8-905.10(C), and 8-905.10(D)."

(z) Annex 1, Paragraph 8-905.20 is amended to add Paragraph (D) to read:

"(D) A local health department may establish its own response form and contents requirements in accordance with Utah Code and constitutional requirements to supersede the requirements in Paragraphs 8-905.20(A), 8-905.20(B), and 8-905.20(C)."

(aa) Annex 1, Subparagraph 8-905.50(A)(1) is amended to read:

"(1) Except as provided in Paragraph (B) of this section, within five calendar days after receiving a written request for an appeal hearing from:"

(bb) Annex 1, Subparagraph 8-905.50(A)(2) is amended to read:

"(2) Within 30 calendar days after the service of a hearing notice to consider administrative remedies for other matters as specified in Paragraph 8-905.10(C) or for matters as determined necessary by the local health department."

(cc) Annex 1, Paragraph 8-905.50 is amended to add Paragraph (C) to read:

"(C) A local health department may establish its own appeal proceeding procedures in accordance with Utah Code and constitutional requirements to supersede the requirements in Paragraphs 8-905.50(A) and 8-905.50(B)."

(dd) Annex 1, Paragraph 8-905.60 is amended to add Paragraph (B) to read:

"(B) A local health department may establish its own hearing notice requirements in accordance with Utah Code and constitutional requirements to supersede the requirements in Paragraph 8-905.60."

(ee) Annex 1, Paragraph 8-905.90(A) is amended to read:

"(A) Hearings will be open to the public except under compelling circumstances, such as the need to discuss a person's medical or mental health condition, a food establishment's trade secrets, or any other privacy matter that is protected under federal or state law."

(ff) Annex 1, Paragraph 8-905.90 is amended to add Paragraph (C) to read:

"(C) A local health department may establish its own hearing confidentiality policy in accordance with Utah Code and constitutional requirements to supersede the requirements in Paragraphs 8-905.90(A) and 8-905.90(B)."

(gg) Annex 1, Paragraph 8-906.30(B) is amended to read:

"(B) Unless a party appeals to the local health officer within ten calendar days of the hearing or a lesser number of days specified by the hearing officer:"

(hh) Annex 1, Paragraph 8-906.30 is amended to add Paragraph (C) to read:

"(C) A local health department may establish its own hearing officer powers in accordance with Utah Code and constitutional requirements to supersede the requirements in Paragraphs 8-906.30(A) and 8-906.30(B)."

(ii) Annex 1, Paragraph 8-907.60 is amended to label the existing paragraph (A) and include Paragraph (B) to read:

"(B) A local health department may establish its own documentary evidence policy in accordance with Utah Code and

constitutional requirements to supersede the requirements in Paragraph 8-907.60(A)."

(jj) Annex 1, Section 8-908.20 is amended to read:

"Respondents accepting a consent agreement waive their right to a hearing on the matter, including judicial review."

(kk) Annex 1, Paragraph 8-911.10(B) is amended to read:

"(B) Any person who violates this rule may be assessed a civil penalty as provided in Section 26B-1-224."

(ll) Annex 1, Paragraph 8-913.10(B) is amended to read:

"In addition to any criminal fines and sentences imposed as specified in Section 8-911.10, or to being enjoined as specified in Section 8-912.10, a person who violates a provision of this code, any rule or regulation adopted in accordance with law related to food establishments within the scope of this code, or to any term, condition, or limitation of a permit issued as specified in Sections 8-303.10 and 8-303.20 is subject to a civil penalty not exceeding $5,000."

(mm) Annex 1, Section 8-913.10 is amended to add Paragraph (D) to read:

"(D) The adjudicative body, upon proper findings, shall assess violators a fee for each day the violation remains in contempt of its order."

R392-100-5. Construction Standards.

The food establishment shall be designed, constructed, maintained, and operated to meet the requirements of Title 15A, State Construction and Fire Codes Act.

KEY: public health, food services, sanitation, food safety
Date of Last Change: 2024[~~November 8, 2023~~]
Notice of Continuation: November 1, 2021
Authorizing, and Implemented or Interpreted Law: 26B-1-202; 26B-7-402[~~26B-7-402; 26B-1-202~~]

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	**R597-6**	**Filing ID: 56378**

Agency Information

1. Department:	Judicial Performance Evaluation Commission	
Agency:	Administration	
Room number:	Suite 330	
Building:	Senate Building	
Street address:	350 State Street	
City, state and zip:	Salt Lake City, UT 84114	
Contact persons:		
Name:	**Phone:**	**Email:**
Mary-Margaret Pingree	385-910-2097	mmpingree@utah.gov
Madison Klein	801-538-1146	mklein@utah.gov

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

General Information

2. Rule or section catchline:

R597-6. Judicial Performance Evaluations

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

Rule R597-3 expired on 02/06/2024. This new rule replaces the expired rule.

4. Summary of the new rule or change:

This rule provides details on the processes for judicial performance evaluations. It replaces an expired rule and does not introduce any new information.

Fiscal Information

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

A) State budget:

This new rule requires no additional state funds.

This new rule replaces a rule that recently expired. As the substance of this rule remains the same, there is no fiscal impact to this new rule filing.

B) Local governments:

This new rule will have no fiscal impact on local governments.

Judicial performance evaluations are performed at the state level and do not require funding from local governments.

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

This new rule will have no fiscal impact on small businesses.

This new rule replaces a rule that recently expired. As the substance of the rule remains the same, there is no fiscal impact to this new rule filing.

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

This new rule will have no fiscal impact on non-small business.

This new rule replaces a rule that recently expired. As the substance of the rule remains the same, there is no fiscal impact to this new rule filing.

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 new rule does not introduce any additional costs to individuals or organizations.

This new rule replaces a rule that recently expired. As the substance of the rule remains the same, there is no fiscal impact to this new rule filing.

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 this new rule.

This new rule replaces a rule that recently expired. As the substance of the rule remains the same, there is no fiscal impact and no compliance costs for this new rule 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

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 Judicial Performance Evaluation Commission, Mary-Margaret Pingree, has reviewed and approved this analysis.

As this rule is a replacement of an expired rule, there is no fiscal impact.

Citation Information

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

Title 78A, Chapter-12		

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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024

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:	Gil Miller, JPEC Chairperson	**Date:**	03/13/2024

R597. Judicial Performance Evaluation Commission, Administration.

R597-6. Judicial Performance Evaluations.

R597-6-1. Evaluation Cycles.

(1) Subject to Subsection R597-6-1(3), the evaluation cycles for judges not serving on the supreme court include:

(a) the midterm evaluation cycle, beginning upon the appointment of the judge or on the first Monday in January following the retention election of the judge and ending on September 30 of the third year preceding the year of the judge's next retention election; and

(b) the retention evaluation cycle, beginning the day after the midterm evaluation cycle is finished and ending on September 30 of the year preceding the year of the judge's next retention election.

(2) Subject to Subsection R597-6-1(3), the evaluation cycles for justices serving on the supreme court include:

(a) the initial evaluation cycle, beginning upon the appointment of the justice or on the first Monday in January following the retention election of the justice and ending on September 30 of the seventh year preceding the year of the justice's next retention election;

(b) the midterm evaluation cycle, beginning the day after the initial evaluation cycle is finished and ending on September 30 of the third year preceding the year of the justice's next retention election; and

(c) the retention evaluation cycle, beginning the day after the midterm evaluation cycle is finished and ending on September 30 of the year preceding the year of the justice's next retention election.

(3) The commission will not conduct evaluations during the first six months of the retention evaluation cycle, to allow judges time to incorporate feedback from midterm evaluations into their practices.

R597-6-2. Survey.

(1) For judicial performance evaluations, the commission shall:

(a) conduct surveys as described in Section R597-6-1; and

(b) post on its website the survey questionnaires upon which the judge shall be evaluated at the beginning of the survey cycle.

(2) For judicial performance evaluations, the commission may:

(a) conduct periodic reviews to ensure compliance with administrative rules governing the survey process; and

(b) consider narrative survey comments that cannot be reduced to a numerical score.

(3) Within ten business days of the end of the evaluation cycle, the clerk for the judge or the Administrative Office of the Courts shall identify attorneys who have appeared before the judge during the evaluation cycle a minimum of one hearing or trial.

(4) Identified attorneys may be included in the attorney survey pool for the evaluated judge, except if the attorney has been:

(a) confirmed as a judge during the evaluation cycle; or

(b) referred by the judge to the Office of Professional Conduct for allegations of misconduct.

(5) Within ten business days of the end of the evaluation cycle, the Office of Professional Conduct shall identify any judges who have referred an attorney for allegations of misconduct.

(6) A third-party contractor engaged as a surveyor by the commission shall:

(a) design the survey to comply with generally accepted principles of surveying;

(b) determine the maximum number of survey requests to send to a survey respondent, except that no survey respondent shall receive more than nine survey requests;

(c) identify the number of attorneys most likely to produce a response level yielding reliability at a 95% confidence level with a margin of error of +/- 5% for each judge who is the subject of a survey;

(d) survey any attorneys with one trial appearance before the evaluated judge, in accordance with Subsection R597-6-2(6)(b);

(e) consider any attorneys with at least five total appearances before the evaluated judge as eligible to be surveyed;

(f) supplement the survey pool with other attorneys who have appeared before the judge during the evaluation cycle if the attorney appearance list from the Administrative Office of the Courts contains an insufficient number of attorneys with one trial appearance or at least five total appearances before the evaluated judge to achieve the required confidence level;

(g) distribute the surveys to the appropriate survey respondent;

(h) redact any written comments from survey responses to remove any information that identifies the person commenting and deliver the redacted comments to the commission; and

(i) redact any written comments from survey responses to remove any information that discloses the identity of any crime victims and deliver the redacted comments to the commission.

(7) The surveyor may distribute surveys in paper form to those survey respondents who do not have access to email.

(8) Before the jury is dismissed, the bailiff or clerk in charge of a jury shall:

(a) collect email addresses from jurors;

(b) collect street addresses from jurors who do not have an email address; and

(c) send all such addresses to the surveyor within 24 hours of collection.

(9) Survey respondents eligible to receive a survey include:

(a) attorneys, as described in Subsections R597-6-2(3) and R597-6-2(4);

(b) jurors who participate in jury deliberation, where applicable;

(c) court staff who have worked with the judge including:

(i) judicial assistants;

(ii) case managers;

(iii) clerks of court;

(iv) trial court executives;

(v) interpreters;

(vi) bailiffs;

(vii) law clerks;

(viii) central staff attorneys;

(ix) juvenile probation and intake officers;

(x) other courthouse staff, as appropriate;

(xi) Administrative Office of the Courts staff; and

(xii) treatment providers for specialty courts;

(d) juvenile court professionals, where applicable:

(i) Division of Child and Family Services (DCFS) child protection services workers;

(ii) DCFS case workers;

(iii) Division of Juvenile Justice and Youth Services (JJYS) Observation and Assessment Staff;

(iv) JJYS case managers;

(v) JJYS secure care staff; and

(vi) others who provide substantive professional services on a regular basis to the juvenile court.

(10) Any survey respondent may submit a public comment in writing pursuant to Subsection78A-12-203(2)(e), regardless of the submission of a survey response containing an anonymous narrative comment.

(11) The raw form of survey results consists of quantitative survey data that contributes to the minimum score on the judicial performance survey.

(12) The summary form of survey results consists of quantitative survey data in aggregated form.

R597-6-3. Courtroom Observation.

(1) Courtroom observations shall be conducted according to the evaluation cycles described in Subsections R597-6-1(1) and R597-6-1(2).

(2) Courtroom observers shall be volunteers, recruited by the commission through public outreach and advertising.

(3) For courtroom observation, commission staff shall:

(a) notify each judge at the beginning of each survey cycle of the courtroom observation process and of the observation instrument to be used by the courtroom observers;

(b) select courtroom observers based on written applications and an interview process; and

(c) track and report the method by which each observation was conducted, as outlined in Subsection R597-6-3(8).

(4) Only the summary of the individual courtroom observation reports shall be included in the retention report published publicly for each judge.

(5) Individuals with a broad and varied range of life experiences shall be sought to volunteer as courtroom observers, except that the following individuals may be excluded from eligibility:

(a) individuals who currently have, or have previously had, professional or personal involvement with the court system, or the judge;

(b) individuals with a fiduciary relationship with the judge;

(c) individuals within a third degree of relationship with a state or justice court judge. This includes grandparents, parents or parents-in-law, aunts or uncles, children, nieces and nephews and their spouses;

(d) individuals lacking computer access or basic computer literacy skills;

(e) individuals currently involved in litigation in state or justice courts; or

(f) individuals whose background or experience suggests they may have a bias that would prevent them from objectively serving in the courtroom observation program.

(6) Courtroom observers shall:

(a) serve at the will of the commission staff;

(b) refrain from disclosing the content of their courtroom evaluations in any form or to any person except as designated by the commission;

(c) satisfactorily complete a courtroom observation training program developed by the commission before engaging in courtroom observation;

(d) conduct courtroom observations of in-court proceedings for each judge they are assigned to observe, for a minimum of two hours; and

(e) upon completion of the observation of a judge, complete the observation instrument, which will be electronically transferred to commission staff.

(7) Courtroom observations may be completed in one sitting or over several courtroom calendars.

(8) Courtroom observations may be conducted using the following methods, as necessary to complete the required number of observations for a judge:

(a) in-person;

(b) by video, including web conferencing, live-streamed video, and pre-recorded video;

(c) by audio recordings; or

(d) a combination of the methods.

(9) The commission shall develop a courtroom observation training program that shall include:

(a) orientation and overview of commission processes and the courtroom observation program;

(b) classroom training addressing each level of court;

(c) in-court group observations, with subsequent classroom discussions, for each level of court;

(d) training on proper use of the observation instrument;

(e) training on confidentiality and non-disclosure issues;

(f) training on electronic access methods to conduct observations;

(g) training on observation dynamics based on type of method; and

(h) such other periodic trainings as are necessary for effective observations.

(10) During each midterm and retention evaluation cycle, a minimum of four different courtroom observers shall observe each judge subject to that evaluation cycle.

(11) Courtroom observers may observe a judge sitting in more than one geographic location or a justice court judge serving in more than one jurisdiction, in any location or combination of locations in which the judge holds court.

(12) Courtroom observers, though volunteers, may be eligible to receive compensation in exchange for successful completion of a specified amount of additional courtroom observation work.

(13) Courtroom observers shall evaluate the judicial behavior observed in court as it relates to procedural fairness by responding in narrative form to principles and behavioral standards which shall include:

(a) neutrality, including the judge:

(i) displaying fairness and impartiality toward court participants;

(ii) acting as a fair and principled decision maker who applies rules consistently across court participants and cases;

(iii) explaining transparently and openly how rules are applied and how decisions are reached; and

(iv) listening carefully and impartially;

(b) respect, including the judge:

(i) demonstrating courtesy toward attorneys, court staff, and others in the court;

(ii) treating all people with dignity;

(iii) helping interested parties understand decisions and what the parties must do as a result;

(iv) maintaining decorum in the courtroom;

(v) demonstrating adequate preparation to hear scheduled cases;

(vi) acting for the parties, not out of demonstrated personal prejudices;

(vii) managing caseflow efficiently and demonstrating awareness of the effect of delay on court participants; and

(viii) demonstrating interest in the needs, problems, and concerns of court participants;

(c) voice, including the judge:

(i) giving parties the opportunity, where appropriate, to give voice to their perspectives or situations and demonstrating that they have been heard;

(ii) behaving in a manner that demonstrates full consideration of the case as presented through witnesses, arguments, pleadings, and other documents; and

(iii) attending, where appropriate, to the participants' comprehension of the proceedings;

(d) any other questions necessary to help the commission assess the overall performance of the judge with respect to procedural fairness.

R597-6-4. Minimum Performance Standards.

(1) In addition to the minimum performance standards specified by statute, the judge shall:

(a) demonstrate by the totality of the circumstances that the judge's conduct in court promotes procedural fairness for court participants;

(b) meet all performance standards established by the Judicial Council, including

(i) annual judicial education hourly requirements;

(ii) case-under-advisement standards; and

(iii) physical and mental competence to hold office.

(2) No later than October 1 of the year preceding each general election year, the Judicial Council shall certify to the commission whether each judge standing for retention election in the next general election has satisfied its performance standards.

(3) To determine if the judge meets the minimum performance standard of procedural fairness, the commission shall:

(a) consider only data collected as part of the judge's performance evaluation, pursuant to Subsection 78A-12-203(2);

(b) apply a standard commensurate with the standard for scored minimum performance standards on the judicial performance survey, as in Subsection 78A-12-205(1)(b)(i); and

(c) determine by a majority of the quorum vote whether the judge meets the minimum performance standard of procedural fairness, the outcome of which shall establish the rebuttable presumption as it applies to procedural fairness, in accordance with Subsection 78A-12-203(4)(b).

(4) A rebuttable presumption to recommend a judge for retention arises when the judge meets all minimum performance standards.

(5) A rebuttable presumption not to recommend a judge for retention arises when the judge fails to meet one or more minimum performance standards.

(6) A commissioner may vote to overcome the presumption for or against a retention recommendation on any judge if the commissioner concludes that substantial countervailing evidence outweighs the presumption.

R597-6-5. Public Comments.

(1) Persons desiring to comment about a particular judge with whom they have had experience may do so at any time, either by submitting such comments on the commission website or by submitting them to commission staff.

(2) In order for the commission to consider comments in making its retention recommendation on a particular judge, comments about that judge must be received no later than March 1 of the year in which the judge's name appears on the ballot.

(3) Comments received after March 1 of the year in which the judge's name appears on the ballot will be included as part of the judge's midterm report in the subsequent evaluation cycle.

(4) Comments received about a judge after the midterm evaluation cycle ends will be included in the judge's next retention report.

(5) Persons submitting comments may choose whether to include their name and contact information with their submission.

(6) Public comments are subject to GRAMA, pursuant to Subsection 78A-12-206(1).

R597-6-6. Judicial Retirements and Resignations.

(1) For purposes of judicial performance evaluation, the commission shall evaluate each judge unless the judge:

(a) provides written notice of resignation or retirement to the appointing authority;

(b) is removed from office;

(c) becomes subject to mandatory judicial retirement due to age;

(d) otherwise vacates the judicial office; or

(e) fails to properly file for retention.

(2) For purposes of judicial performance evaluation, when one of the events in Subsection R597-6-6(1) occurs, then the commission shall end its evaluation of the judge when the judge's last day in office will be:

(a) on or before December 31 of the year of the judge's retention election, if the judge's evaluation is a retention evaluation; or

(b) on or before April 1 of the year following the judge's midterm survey, if the judge's evaluation is a midterm evaluation.

(3) The retention evaluation for a judge who provides written notice of resignation or retirement following completion of the retention evaluation but before distribution of the retention evaluation, shall be sent to the Judicial Council.

(4) If, pursuant to Subsections R597-6-6(1)(a) and R597-6-6(2), the commission ends the evaluation of a judge, and the judge does not leave office as indicated, the commission may choose to publish only the data collected before to ending the evaluation, or to complete the evaluation; and

(a) if the judge is subject to a retention evaluation, the commission may elect not to issue a retention recommendation, if it also notes the reason for the election in the judge's report, as in Subsection 78A-12-206(4)(e); or

(b) if the judge is subject to a midterm evaluation, the commission may send the report to the judge without qualifying it as a partial midterm, as in Subsection 78A-12-203(7)(d).

R597-6-7. Publication of Retention Reports.

No later than 60 days before Election Day, the commission shall post on its website the retention reports of judges who have filed for that election.

R597-6-8. Judicial Written Statements.

If, pursuant to Subsection 78A-12-206(3), a judge is eligible to provide a written statement to be included in the judge's retention report, the statement shall be due to commission staff, in writing, no later than one week after the deadline for the judge to file a declaration of the judge's candidacy in the retention election.

R597-6-9. Judicial Discipline.

(1) For the purposes of judicial performance evaluation and pursuant to Section 78A-12-205, the commission shall consider any public sanction of a judge issued by the Supreme Court during the judge's current term, including any public sanctions:

(a) issued during the judge's midterm and retention evaluation cycles; and

(b) issued after the end of the judge's retention evaluation cycle until the commission votes whether to recommend the judge for retention.

(2) If the Utah Supreme Court issues a public sanction of a judge after the reconsideration period is no longer available, as set forth in Subsection 78A-12-203(6), but before Election Day, the commission may elect to reconsider the commission's recommendation, using the reconsideration process outlined in Subsection 78A-12-203(6), even if the results of the reconsideration cannot be printed in the Voter Information Pamphlet, so long as the reconsideration is communicated through some public means.

(3) If the Utah Supreme Court issues a public sanction of a judge after the retention election of the judge, but before the end of the judge's term of office, and if the judge is retained by voters, the commission shall consider the public sanction as part of the judge's next judicial performance evaluation.

KEY: judicial performance evaluations, judges, evaluation cycles, surveys
Date of Last Change: 2024
Authorizing, and Implemented or Interpreted Law: 78A-12

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Rule or Section Number:	**R653-14**	**Filing ID: 56338**

Agency Information

1. Department:	Natural Resources
Agency:	Water Resources
Room number:	310
Building:	Natural Resources Building
Street address:	1594 W. North Temple, 310
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 14602
City, state and zip:	Salt Lake City, UT 84114
Contact persons:	

Name:	**Phone:**	**Email:**
Carly Payne	801-538-7235	carlypayne@utah.gov
Shalaine De Bernardi	801-652-1668	shalainedebernardi@utah.gov
Elizabeth Harris	385-395-0857	eharris@agutah.gov

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

General Information

2. Rule or section catchline:

R653-14. Capital Asset Management Plans

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

Changes to Section 73-10g-502 (passed in the 2022 General Session under H.B. 269 and made effective 05/04/2022) requires the Board of Water Resources to enact administrative rules establishing the elements of a capital asset management plan for a water provider that is a water conservancy district.

This proposed rule is to comply with the requirements of that statute.

4. Summary of the new rule or change:

The proposed rule identifies and describes the elements of a capital asset management plan which must be adopted as a condition to receiving federal or state financing or grants for improvement to capital assets related to water infrastructure for water conservancy districts with an annual operating budget of $5,000,000 or less.

Fiscal Information

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

A) State budget:

In H.B. 269 (2022), the Legislature imposed a requirement on water providers receiving state or federal financing or grants for water infrastructure to adopt a capital asset plan.

This rule requires the Division of Water Resources (Division) to review and approve the plans adopted. These plans will be reviewed by existing staff at the Division – no new hires or overtime pay will be required.

B) Local governments:

This rule would impact local conservancy districts with annual operating budgets of $5,000,000 or less if that district sought state or federal funding for water infrastructure projects.

The Division is unable to estimate the impact on these districts because the costs to formulate a capital asset plan will vary based on the particular circumstances of each district.

This rule outlines the requirements for capital asset plans as required by the Legislature in H.B. 269 (2022).

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

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

This rule applies only to water conservancy districts with an annual operating budget of $5,000,000 or less.

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

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

This rule applies only to water conservancy districts with an annual operating budget of $5,000,000 or less.

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

This rule is not expected to have a fiscal impact on any persons other than water conservancy districts with an annual operating budget of $5,000,000 or less and the Division.

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

It is not possible to estimate compliance costs for the affected districts because the cost to prepare a capital asset plan will vary based on the particular circumstances of each district.

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 73-10g-502		

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:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024

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:	Candice Hasenyager, Director	**Date:**	02/29/2024

R653. Natural Resources, Water Resources.
R653-14. Capital Asset Management Plans.
R653-14-1. Purpose and Authority.

(1) As a condition to receiving federal or state financial assistance for improvement to capital assets related to water infrastructure, Section 73-10g-502 requires water conservancy districts with an annual operating budget of $5,000,000 or less to commit to adopt a capital asset management plan.

(2) The purpose of this rule is to identify and describe the elements of a capital asset management plan, as directed in Section 73-10g-502.

(3) Water conservancy districts with an annual operating budget over $5,000,000 are not subject to this rule and shall instead comply with Section 17B-2a-1010.

R653-14-2. Definitions.

As used in this rule:

(1) "Capital asset" means an asset that:

(a) is a significant investment or an essential component necessary to provide water service, including:

(i) a facility;

(ii) infrastructure, whether above or below ground level;

(iii) equipment; or

(iv) a communications network; and

(b) is owned by a water conservancy district.

(2) "Capital asset management plan" or "plan" means a capital asset assessment, maintenance, and replacement program described and required in Section R653-12-3.

(3) "Division" means the Division of Water Resources.

(4) "Water conservancy district" means an entity formed under Title 17B, Chapter 2a, Part 10, Water Conservancy District Act, with an annual operating budget of $5,000,000 or less.

R653-14-3. Capital Asset Management Plan.

(1) As a condition to receiving federal or state financing or grants for improvement to capital assets related to water infrastructure, a water conservancy district must commit to adopt a capital asset management plan consistent with Section 73-10g-502 and this rule.

(2) The capital asset management plan shall require the water conservancy district to:

(a) complete an inventory of each capital asset, including the following information for each inventoried asset:

(i) a technical description;

(ii) location;

(iii) physical condition;

(iv) documentation of the asset's standard features;

(v) warranties;

(vi) maintenance history;

(vii) replacement costs;

(viii) estimated value;

(ix) estimated original useful life; and

(x) estimated remaining useful life; and

(b) assess the physical condition of the capital asset in accordance with a method established under Subsection (3)(a)(i) at least every five years.

(3)(a) The plan shall establish:

(i) a method to assess the physical condition of each capital asset;

(ii) performance and condition standards for each capital asset;

(iii) a program for monitoring and reporting the water conservancy district's application of and compliance with the plan, including a comparison of each capital asset's current status and targeted standards for that capital asset as set forth in the plan;

(iv) a process to evaluate existing capital assets for efficiency and expected service delivery; and

(v) objective criteria for ranking capital asset criticality and prioritizing maintenance and replacement.

(b) A performance and condition standard described in Subsection (3)(a)(ii) may be:

(i) a mandated safety standard;

(ii) a standard condition of receiving federal, state, or local funding; or

(iii) an applicable engineering or other professional standard.

(4) The plan shall include:

(a) a multiyear financial component that includes:

(i) criteria and guidelines for saving and allocating sufficient funds in the water conservancy district's annual operating budget for assessing, maintaining, repairing, and replacing capital assets; and

(ii) guidelines for dedicating revenue to priority capital assets identified under Subsection (3)(a)(v); and

(b) the water conservancy district's assurance it will:

(i) implement the capital asset management plan and seek to comply with its terms; and

(ii) adopt annual operating budgets that include ongoing funding for capital asset
maintenance, repair, and replacement.

R653-14-4. Capital Asset Management Plan Review.

(1)(a) A water conservancy district shall submit a copy of its completed capital asset management plan to the division within two years of seeking a federal or state loan or grant for improvement to its water infrastructure capital assets.

(2) Upon receipt of a plan submitted by a water conservancy district, the division shall review it for completeness and compliance with Section 73-10g-502 and this rule.

(a) If the plan is found deficient, the division will notify the water conservancy district of the deficiencies and provide an opportunity to revise them as necessary.

(b) If the plan is found complete and consistent with this rule, the division will issue a letter to the water conservancy district indicating compliance.

KEY: capital asset management plan
Date of Last Change: 2024
Authorizing, and Implemented or Interpreted Law: 73-10g-502

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 May 01, 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 July 30, 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:	**R380-70**	**Filing ID: 56036**
Date of Previous Publication:	**11/15/2023**	

Agency Information

1. Department:	Health and Human Services	
Agency:	Administration	
Room number:	104	
Building:	Dr. Martha Hughes Cannon Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Valli Chidambaram	801-739-4211	vchidambaram@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R380-70. Standards for Electronic Exchange of Clinical Health Information

3. Reason for this change:

This change addresses public feedback received based on the original amendment.

Concerns were raised regarding the absence of clarification on the standards for electronic exchanges for claims and administrative transactions.

The Department of Health and Human Services (Department) also received requests to provide clarification to ensure there is no conflict between the standards specified in this rule and the Utah Insurance Department's Rule R590-164.

This change in proposed rule is a result from these public comments.

4. Summary of this change:

The original proposed rule has been updated to provide better clarification on points raised by public comment.

This change adds clarifications to X12 transactions and all other standards developed and adopted by the UHIN Standards Committee and adopted by the Insurance Commissioner.

NCPDP standards have also been included as incorporations by reference to clarify that those standards apply to the exchange of electronic data.

This change also makes minor formatting changes for consistency with the Rulewriting Manual for Utah.

(EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the November 15, 2023, issue of the Utah State Bulletin, on page 61. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

Fiscal Information

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

A) State budget:

This CPR clarifies standards and requirements that are already in place and that the state already follows.

Since there are no anticipated new requirements or restrictions as a result of this filing, there is no anticipated fiscal cost or savings to the state.

B) Local government:

This CPR clarifies standards and requirements that are already in place and that local governments already follow.

Since there are no anticipated new requirements or restrictions as a result of this filing, there is no anticipated fiscal cost or savings to local governments.

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

This CPR clarifies standards and requirements that are already in place and that small businesses already follow. Since there are no anticipated new requirements or restrictions as a result of this filing, there is no anticipated fiscal cost or savings to the small businesses.

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

This CPR clarifies standards and requirements that are already in place and that non-small businesses already follow.

Since there are no anticipated new requirements or restrictions as a result of this filing, there is no anticipated fiscal cost or savings to non-small businesses.

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 CPR clarifies standards and requirements that are already in place and that other persons already follow.

Since there are no anticipated new requirements or restrictions as a result of this filing, there is no anticipated fiscal cost or savings to persons other than small businesses, non-small businesses, state, or local government entities.

F) Compliance costs for affected persons:

As there are no anticipated affected persons, this rule is not expected to result in compliance costs.

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

Regulatory Impact Table

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

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

The Executive Director of the Department of Health and Human Services, Tracy 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:

Subsection 26B-1-202(43)	Section 26B-8-411	

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)	NCPDP SCRIPT Standard, Implementation Guide
Publisher	National Council for Prescription Drug Programs (NCPDP)
Issue Date	July 28, 2017
Issue or Version	Version 2017071

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

Official Title of Materials Incorporated (from title page)	NCPDP SCRIPT Standard Implementation Guide
Publisher	National Council for Prescription Drug Programs (NCPDP)
Issue Date	November 12, 2008
Issue or Version	Version 10.6

C) This rule adds, updates, or removes the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	Health Level Seven Standards
Publisher	HL7 International
Issue Date	March 26, 2023

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	05/01/2024

9. This rule change MAY become effective on:	05/08/2024
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:	03/12/2024

R380. Health and Human Services, Administration.
R380-70. Standards for Electronic Exchange of Clinical Health Information.
R380-70-1. Purpose and Authority.

(1) This rule governs electronic information exchanges between health care providers, laboratories, and third-party payers.

(2) Subsection 26B-1-202(43) and Section 26B-8-411 authorize this rule.

R380-70-2. Definitions.

The terms defined in Section 26B-8-411 apply to this rule and the standards adopted by this rule.[-] In addition, the following terms apply[~~to this rule and the standards adopted by this rule~~]:

(1) "Clinical health information" means data gathered on patients regarding episodes of clinical health care.

(2)(a) "Clinical laboratory" means a laboratory that performs laboratory testing[~~, except~~].

(b) "Clinical laboratory" does not mean a laboratory that performs research[~~,~~] on humans in the United States.

(3)(a) "Health care provider" has the same meaning as used in Section 26B-8-411[~~and~~].

(b) "Health care provider" includes an entity, such as a clinic, employer, or other business arrangement, where an individual licensed under Title 58, Occupations and Professions, provides health care.

R380-70-3. Electronic Exchange Requirements.

(1) A health care provider or third-party payer that exchanges clinical health information electronically with another health care provider or third-party payer shall comply with this rule.

(2) A person required to report information to the Utah Department of Health and Human Services and that submits its report electronically shall submit the report in accordance with this rule.

(3) A health care provider or third-party payer may reject electronically transmitted clinical information if it is not transmitted in accordance with this rule.

R380-70-4. Exemptions.

(1) This rule does not govern the exchange of information that is not conducted electronically or for which no standard has been established in this rule.

(2) This rule does not apply to the exchange of clinical health information among affiliates, as provided in Section 26B-8-411, within a health care system.

(3) This rule does not require a health care provider or third-party payer to use a specific telecommunications network for the exchange of clinical health information.

R380-70-5. Electronic Data Interchange Standards.

[~~(1)~~]A health care provider, a clinical laboratory, or third-party payer that electronically exchanges clinical health information with another health care provider, clinical laboratory, or third-party payer shall comply with electronic data interchange standards as defined in Subsection R590-164-5(5) and the following standards, as written in the March 26, 2023-updated Health Level Seven International (HL7) Standards, incorporated by reference in this rule:[~~Standards in this rule are available for public inspection through the~~]

(1) [~~Health Level Seven International (~~]HL7[~~) website.~~] Version 2;

(2) HL7 Version 3;

(3) HL7 Clinical Document Architecture (CDA) Release 1;

(4) HL7 CDA Release 2;

(5) HL7 Fast Healthcare Interoperability Resources Specification (FHIR);

(6) National Council for Prescription Drug Programs (NCPDP) SCRIPT Standard Implementation Guide; Version 2017071; and

(7) NCPDP SCRIPT Standard, Implementation Guide, Version 10.6.

[~~(2) A health care provider, a clinical laboratory, or third-party payer that electronically exchanges clinical health information with another health care provider, a clinical laboratory, or third-party payer shall comply with the following Health Level Seven International (HL7) standards:~~

~~(a) HL7 Version 2 or higher;~~

~~(b) CDA Release 1 or higher; or~~

~~(c) FHIR (HL7 Fast Healthcare Interoperability Resources).~~

~~**R380-70-6. Standards Recommendations.**~~

~~A party that recommends standards to the department, shall seek guidance and work with national standard setting entities, such as the American National Standards Institute ASC X12, Health Level~~

~~7, and the National Council on Prescription Drug Program, that deal with the particular subject matter.~~]

KEY: standards, clinical health information exchange
Date of Last Change: [~~2023~~]2024

Notice of Continuation: January 22, 2024
Authorizing, and Implemented or Interpreted Law: 26B-1-202; 26B-8-411

End of the Notices of Changes in Proposed Rules Section

NOTICES OF
120-DAY (EMERGENCY) RULES

An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that regular rulemaking procedures would:

(a) cause an imminent peril to the public health, safety, or welfare;
(b) cause an imminent budget reduction because of budget restraints or federal requirements; or
(c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-DAY RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-DAY RULE** including the name of a contact person, justification for filing a **120-DAY RULE**, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **120-DAY RULE** is printed. New text is underlined (example) and text to be deleted is struck out with brackets surrounding the deleted text ([~~example~~]). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (**. . . . . .**) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective when filed with the Office of Administrative Rules, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule. Because of its temporary nature, a **120-DAY RULE** is not codified as part of the *Utah Administrative Code*.

The law does not require a public comment period for **120-DAY RULES**. However, when an agency files a **120-DAY RULE**, it may file a **PROPOSED RULE** at the same time, to make the requirements permanent.

Emergency or **120-DAY RULES** are governed by Section 63G-3-304, and Section R15-4-8.

NOTICE OF EMERGENCY (120-DAY) RULE		
Rule or Section Number:	**R68-29**	**Filing ID: 56363**
Effective Date:	**03/08/2024**	

Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant industry	
Building:	TSOB South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	**Phone:**	**Email:**
Amber Brown	385-245-5222	ambermbrown@utah.gov
Brandon Forsyth	801-710-9945	bforsyth@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov

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

General Information

2. Rule or section catchline:
R68-29. Quality Assurance Testing on Cannabis
3. Purpose of the new rule or reason for the change:
Through lab testing, the Department of Agriculture and Food (Department) has recently identified the presence of tetrahydrocannabinol acetate (THC-OAc) in a variety of medical cannabis products. Based on recent rule changes disallowing the presence of any detectable amount of this substance, these products have been put on hold and cannot be sold. Emergency rule changes are needed to allow a small, relatively safe amount to be present so the holds can be released, and patients can have access to the products they need. The changes are supported by a vote of the Medical Cannabis Policy Advisory Board.
4. Summary of the new rule or change:
This change adds clarifying language to Section R68-29-7

that will allow THC-OAc in cannabis concentrate up to 1% of the total cannabinoid peak area or in a cannabis product up to 0.5% of the total cannabinoid peak area. THC-OAc has also been removed from Table 3.

5A) The agency finds that regular rulemaking would:	
☒	cause an imminent peril to the public health, safety, or welfare;
☐	cause an imminent budget reduction because of budget restraints or federal requirements; or
☐	place the agency in violation of federal or state law.

B) Specific reasons and justifications for this finding:
Without these immediate changes, a significant number of medical cannabis products cannot be sold to medical cannabis cardholders and patients will not be able to access the medicine they need. The changes are also needed to allow cannabis licensees to sell their products and stay in business, which ultimately impacts patients as well.

Fiscal Information

6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This change does impact the state budget. The Department laboratory was already testing for THC-OAc and will continue to do so.
B) Local governments:
These changes will not impact local governments because they do not participate in the medical cannabis program.
C) Small businesses ("small business" means a business employing 1-49 persons)**:**
These changes will impact small businesses in a positive way because it will allow cannabis licensees to continue to sell their products. The impact cannot be quantified at this time because the Department does not know how many of each licensee's products may have THC-OAc, nor does the Department have access to information regarding what portion of each licensee's revenue would be put in jeopardy without the ability to sell these products or whether that would impact the viability of their business overall. The changes will not have a negative fiscal impact because the Department has not yet acted on a licensee based on the presence of THC-OAc.
D) Persons other than small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
The changes will not impact other persons because they are not cannabis licensees.
E) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**
Compliance costs to participate in the program, including Department fees will not change.
F) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):
This rule will positively impact businesses by allowing them to stay in operation. Craig W Buttars, Commissioner

Citation Information

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

Agency Authorization Information

Agency head or designee and title:	Craig W Buttars, Commissioner	**Date:**	03/08/2024

R68. Agriculture and Food, Plant Industry.
R68-29. Quality Assurance Testing on Cannabis.
R68-29-1. Authority and Purpose.

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

R68-29-2. Definitions.

(1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to health, including:
(a) pesticides;
(b) heavy metals;
(c) solvents;
(d) microbial life;
(e) toxins; or
(f) foreign matter; or
(g) artificially derived cannabinoids.

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

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

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

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

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

(4) "Batch" means a quantity of:

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

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

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

(5) "Cannabinoid" means any:

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

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

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

(7) "Cannabinoid concentrate" means:

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

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

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

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

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

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

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

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

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

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

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

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

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

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

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

(a) is intended for human use; and

(b) contains cannabis or delta 9-tetrahydrocannabinol.

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

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

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

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

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

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

(21) "Foreign matter" means:

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

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

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

(23) "Lot" means the quantity of:

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

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

(24) "Pest" means:

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

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

(25) "Pesticide" means any:

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

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

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

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

(a) an employee of the department;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) the water activity of the sample;

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

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

(3) Required testing shall be performed either:

(a) before the transfer of the cannabis plant product to a cannabis processing facility; or

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

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

(5) Cannabis cultivation byproduct shall either be:

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

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

(6) Cannabis concentrate shall be tested by an independent cannabis testing laboratory before it is incorporated into a cannabis derivative product to determine:

(a) the cannabinoid profile; and

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

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

(8) Before the transfer of a cannabis product to a medical cannabis pharmacy an independent cannabis testing laboratory shall test a representative sample of the product to determine:

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

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

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

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

(10) The department may require mycotoxin testing of a cannabis plant product or cannabis product if they have reason to believe that mycotoxins may be present.

(11) Mycotoxin testing shall be required for cannabis concentrate.

(12) A cannabis processing facility may remediate a cannabis plant product, cannabis concentrate, or cannabis product that fails any of the required adulterant testing standards after submitting and gaining approval for a remediation plan from the department.

(13) A remediation plan shall be submitted to the department within 15 days of the receipt of a failed testing result.

(14) A remediation plan shall be carried out and the cannabis plant product or cannabis concentrate shall be prepared for resampling within 60 days of department approval of the remediation plan.

(15) Resampling or retesting of a cannabis lot or batch that fails any of the required testing standards is not allowed until the lot or batch has been remediated.

(16) A cannabis lot or cannabis product batch that is not or cannot be remediated in the specified time shall be destroyed pursuant to Section 4-41a-405.

(17) If test results cannot be retained in the Inventory Control System, the laboratory shall:

(a) keep a record of test results;

(b) issue a COA for required tests; and

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

(18) Cannabinoid isolate shall be tested for:

(a) solvents;

(b) pesticides;

(c) microbials;

(d) heavy metals; and

(e) mycotoxins.

(19) Cannabinoid isolate shall be accompanied by a COA that complies with the standards included in Section R68-29-5 through Section R68-29-12.

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

TABLE 1
Required Test by Sample Type

Test	Cannabis Plant Product	Cannabis Concentrate	Cannabis Product
Moisture Content	Required	X	X
Water Activity	Required	X	X
Foreign Matter	Required	Required	Required
Potency	Required	Required	Required
Microbial	Required	Required	Required

Pesticides	Required	Required	Required
Residual Solvents	X	Required	Required
Heavy Metals	Required	Required	Required

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

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

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

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

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

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

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

(a) use sterile gloves, instruments, and a glass or plastic container to collect the sample;

(b) place tamper proof tape on the container; and

(c) appropriately label the sample pursuant to Section R68-30-6.

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

(a) 10 subunits with an average weight of one gram each for lots weighing 5 kilograms or less;

(b) 16 subunits with an average weight of one gram each for lots weighing 5.01-9 kilograms;

(c) 22 subunits with an average weight of one gram each for lots weighing 9.01-14 kilograms;

(d) 28 subunits with an average weight of one gram each for lots weighing 14.01-18 kilograms;

(e) 32 subunits with an average weight of one gram each for lots weighing 18.01-23 kilograms.

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

(a) 10 mL or grams for batches of one liter or kilogram or less; or

(b) 20 mL or grams for batches of four liters or kilograms or less.

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

(a) four units for a sample product batch with 5-500 products;

(b) six units for a sample product batch with 501-1000 products;

(c) eight units for a sample product batch with 1,001-5,000 products; and

(d) ten units for a sample product batch with 5,001-10,000 products.

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

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

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

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

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

R68-29-6. Foreign Matter Standards.

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

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

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

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

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

R68-29-7. Potency Testing.

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

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

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

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

(c) any tetrahydrocannabinol acetate (THC-OAc) is found in a cannabis concentrate with a relative peak area greater than 1% of the total cannabinoid peak area or in a cannabis product with a relative peak area greater than 0.5% of the total cannabinoid peak area as determined by high-performance liquid chromatography with a diode array detector;

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

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

TABLE 2 Cannabinoid Components and Action Levels		
Analyte	Chemical Abstract Service	Action Level
Δ9-Tetrahydrocannabidiol (Δ9-THC)	1972-08-03	No Limit
Δ8-Tetrahydrocannabidiol (Δ8-THC)	5957-75-5	No Limit
Δ9-Tetrahydrocannabinolic acid (THCA)	23978-85-0	No Limit
Δ9-Tetrahydrocannabivarin (THCV)	31262-37-0	No Limit
Cannabidiol (CBD)	13956-29-1	No Limit
Cannabidiolic acid (CBDA)	1244-58-2	No Limit
Cannabidivarin (CBDV)	24274-48-4	No Limit
Cannabinol (CBN)	521-35-7	No Limit
Cannabigerol (CBG)	25654-31-3	No Limit
Cannabichromene (CBC)	20675-51-8	No Limit
Cannabigerolic acid (CBGA)	25555-57-1	No Limit
Cannabichromenic acid (CBCA)	20408-52-0	No Limit
9R-Δ6a,10a-Tetrahydrocannabidiol (Δ3-THC)	95720-01-7	1%[1]
9S-Δ6a,10a-Tetrahydrocannabidiol (Δ3-THC)	95720-02-8	1%[1]
(6aR,9R)-Δ10-Tetrahydrocannabidiol	95543-62-7	1%[1]
(6aR,9S)-Δ10-Tetrahydrocannabidiol	95588-87-7	1%[1]
Cannabicitran (CBTC)	31508-71-1	2%

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

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

R68-29-8. Microbial Standards.

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

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

TABLE 4 Microbial Analytes and Action Levels	
Material	Microbial Limit Requirement (cfu/g or cfu/ml)
Cannabis Plant Product	Total Aerobic Microbial Count ≤100,000 Absence of E. Coli and Salmonella spp. Absence of Aspergillus fumigatus, Aspergillus flavus, Aspergillus niger, and Aspergillus terreus
Cannabinoid Concentrate	Total Aerobic Microbial Count ≤10,000 Total Combined Yeast and Mold Count ≤1,000 Absence of STEC Absence of Pseudomonas Absence of Staph
Orally Consumable Products	Total Aerobic Microbial Count ≤10,000 Total Combined Yeast and Mold Count ≤1,000 Absence of E. Coli and Salmonella spp. Absence of Staph
Transdermal Products	Total Aerobic Microbial Count ≤250 Total Yeast and Mold Count ≤250 Absence of Pseudomonas Absence of Staph

R68-29-9. Pesticide Standards.

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

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

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

TABLE 5 Pesticide Analytes and Action Levels		
Analyte	Chemical Abstract Service (CAS) Registry number	Action Level ppm
Abamectin	71751-41-2	0.5
Acephate	30560-19-1	0.4
Acequinocyl	57960-19-7	2
Acetamiprid	135410-20-7	0.2
Aldicarb	116-06-3	0.4
Azoxystrobin	131860-33-8	0.2
Bifenazate	149877-41-8	0.2
Bifenthrin	82657-04-3	0.2
Boscalid	188425-85-6	0.4

Carbaryl	63-25-2	0.2
Carbofuran	1563-66-2	0.2
Chlorantraniliprole	500008-45-7	0.2
Chlorfenapyr	122453-73-0	1
Chlorpyrifos	2921-88-2	0.2
Clofentezine	74115-24-5	0.2
Cypermethrin	52315-07-8	1
Daminozide	1596-84-5	1
DDVP (Dichlorvos)	62-73-7	0.1
Diazinon	333-41-5	0.2
Dimethoate	60-51-5	0.2
Ethoprophos	13194-48-4	0.2
Etofenprox	80844-07-1	0.4
Etoxazole	153233-91-1	0.2
Fenoxycarb	72490-01-8	0.2
Fenpyroximate	134098-61-6	0.4
Fipronil	120068-37-3	0.4
Flonicamid	158062-67-0	1
Fludioxonil	131341-86-1	0.4
Hexythiazox	78587-05-0	1
Imazalil	35554-44-0	0.2
Imidacloprid	138261-41-3	0.4
Kresoxim-methyl	143390-89-0	0.4
Malathion	143390-89-0	0.2
Metalaxyl	57837-19-1	0.2
Methiocarb	2032-65-7	0.2
Methomyl	16752-77-5	0.4
Methyl parathion	298-00-0	0.2
MGK-264	113-48-4	0.2
Myclobutanil	88671-89-0	0.2
Naled	300-76-5	0.5
Oxamyl	23135-22-0	1
Paclobutrazol	76738-62-0	0.4
Permethrins	52645-53-1	0.2
Phosmet	732-11-6	0.2
Piperonyl_butoxide	51-03-6	2
Prallethrin	23031-36-9	0.2
Propiconazole	60207-90-1	0.4
Propoxur	114-26-1	0.2
Pyrethrins	8003-34-7	1
Pyridaben	96489-71-3	0.2
Spinosad	168316-95-8	0.2
Spiromesifen	283594-90-1	0.2
Spirotetramat	203313-25-1	0.2
Spiroxamine	118134-30-8	0.4
Tebuconazole	80443-41-0	0.4
Thiacloprid	111988-49-9	0.2
Thiamethoxam	153719-23-4	0.2
Trifloxystrobin	141517-21-7	0.2

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

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

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

R68-29-10. Residual Solvent Standards.

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

(a) a component of the product formulation;

(b) listed as an ingredient; and

(c) generally considered to be safe for the intended form of use.

TABLE 6
List of Solvents and Action Levels

Solvent	Chemical Abstract Service (CAS) Registry number	Action level ppm
1,2 Dimethoxyethane	110-71-4	100
1,4 Dioxane	123-9	380
1-Butanol	71-36-3	5,000
1-Pentanol	71-41-0	5,000
1-Propanol	71-23-8	5,000
2-Butanol	78-92-2	5,000
2-Butanone	78-93-3	5,000
2-Ethoxyethanol	110-80-5	160
2-methylbutane	78-78-4	5,000
2-Propanol (IPA)	67-63-0	5,000
Acetone	67-64-1	5,000
Acetonitrile	75-05-8	410
Benzene	71-43-2	2
Butane	106-97-8	5,000
Cumene	98-82-8	70
Cyclohexane	110-82-7	3,880
Dichloromethane	75-09-2	600
2,2-dimethylbutane	75-83-2	290
2,3-dimethylbutane	79-29-8	290
1,2-dimethylbenzene	95-47-6	See Xylenes
1,3-dimethylbenzene	108-38-3	See Xylenes
1,4-dimethylbenzene	106-42-3	See Xylenes
Dimethyl sulfoxide	67-68-5	5,000
Ethanol	64-17-5	5,000
Ethyl acetate	141-78-6	5,000
Ethylbenzene	100-41-4	See Xylenes
Ethyl ether	60-29-7	5,000
Ethylene glycol	107-21-1	620
Ethylene Oxide	75-21-8	50
Heptane	142-82-5	5,000
n-Hexane	110-54-3	290
Isopropyl acetate	290	5,000
Methanol	67-56-1	3,000
Methylpropane	75-28-5	5,000
2-Methylpentane	107-83-5	290
3-Methylpentane	96-14-0	290
N,N-dimethylacetamide	127-19-5	1,090
N,N-dimethylformamide	68-12-2	880
Pentane	109-66-0	5,000
Propane	74-98-6	5,000
Pyridine	110-86-1	100
Sulfolane	126-33-0	160
Tetrahydrofuran	109-99-9	720

Toluene	108-88-3	890
Xylenes	1330-20-7	2,170

(2) Xylenes is a combination of the following:
(a) 1,2-dimethylbenzene;
(b) 1,3-dimethylbenzene;
(c) 1,4-dimethylbenzene; and
(d) ethyl benzene.

R68-29-11. Heavy Metal Standards.

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

TABLE 7
Heavy Metals

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

R68-29-12. Mycotoxin Standards.

A sample and related lot or batch of cannabis plant product, cannabis concentrate, or cannabis product fail quality assurance testing for mycotoxin if the results exceed the limits provided in Table 8.

TABLE 8
Mycotoxin

Test	Specification
The Total of	
Aflatoxin B1,	
Aflatoxin B2,	
Aflatoxin G1, and	
Aflatoxin G2	<20 ppb of substance
Ochratoxin A.	<20 ppb of substance

KEY: cannabis testing, quality assurance, cannabis laboratory
Date of Last Change: March 8, 2024
Authorizing, and Implemented or Interpreted Law: 4-41a-701(3)

End of the Notices of 120-Day (Emergency) Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at adminrules.utah.gov. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R251-111**	**Filing ID: 50353**
Effective Date:	**03/13/2024**	

Agency Information

1. Department:	Corrections		
Agency:	Administration		
Street address:	14727 Minuteman Drive		
City, state and zip:	Draper, UT 84020		
Contact persons:			
Name:	**Phone:**	**Email:**	
Wendy Horlacher-Aldrich	435-590-2048	wendyha@utah.gov	
Please address questions regarding information on this notice to the persons listed above.			

General Information

2. Rule catchline:
R251-111. Government Records Access and Management
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized by Subsection 63A-12-104(2) and Sections 63G-2-204, 64-13-10, 46-4-501, and 46-4-502.
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:
Corrections has not received any written comments in the past five years pertaining to this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The purpose of this rule is to provide procedures for access to government records of the Department of Corrections and to facilitate intergovernmental, cross-boundary inter-cooperation. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Brian Redd, Executive Director	**Date:**	03/05/2024

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R277-302**	**Filing ID: 54624**
Effective Date:	**03/11/2024**	

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 catchline:
R277-302. Educator Licensing Renewal
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized pursuant to the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Utah State Board of Education (Board). Subsection 53E-3-401(4) allows the Board to execute rules to carry out its duties and responsibilities under the Utah Constitution and state law. Section 53E-6-201 gives the Board power to issue licenses.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There were no public comments received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary because it ensures that licensed educators maintain and enhance their education-related skills and knowledge throughout the duration of the license. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	**Date:**	03/11/2024

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R277-304**	**Filing ID: 56287**
Effective Date:	**03/15/2024**	

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 catchline:
R277-304. Teacher Preparation Programs
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized pursuant to the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Utah State Board of Education (Board). Subsection 53E-3-401(4) allows the Board to execute rules to carry out its duties and responsibilities under the Utah Constitution and state law. Subsection 53E-6-201(3)(a) directs the Board to make rules to establish the criteria for obtaining an educator license.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There were no public comments received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary because it specifies the standards for educational area and grade level which the Board expects of a teacher preparation institution before program approval. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	**Date:**	03/15/2024

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R277-305**	**Filing ID: 50405**
Effective Date:	**03/11/2024**	

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	
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Contact persons:		
Name:	**Phone:**	**Email:**
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Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:

R277-305. School Leadership License Areas of Concentration and Programs

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

This rule is authorized pursuant to the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Utah State Board of Education (Board).

Subsection 53E-3-401(4) allows the Board to execute rules to carry out its duties and responsibilities under the Utah Constitution and state law.

Section 53E-6-201 permits the Board to issue certificates for educators.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There were no public comments received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary because it specifies the requirements for a professional school leadership license area of concentration, and also specifies the standards which the Board expects of a school leadership preparation program prior to program approval. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	**Date:**	03/11/2024

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R277-310**	**Filing ID: 52960**
Effective Date:	**03/11/2024**	

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 catchline:

R277-310. International Guest Teachers

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

This rule is authorized pursuant to the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Utah State Board of Education (Board).

Subsection 53E-3-401(4) allows the Board to execute rules to carry out its duties and responsibilities under the Utah Constitution and state law.

Subsection 53E-6-201(3)(a) allows the Board to establish the criteria for obtaining educator licenses.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There were no public comments received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary because it establishes procedures for qualified international guest teachers to be effectively hired and placed by a Utah LEA with assistance and direction from the Superintendent to encourage cultural exchange and foreign language development among Utah public school students. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	**Date:**	03/11/2024

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	**R277-472**	**Filing ID: 52342**
Effective Date:	**03/08/2024**	

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 catchline:

R277-472. Charter School Student Enrollment and Transfers and School District Capacity Information

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

This rule is authorized pursuant to the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Utah State Board of Education (Board).

Subsection 53E-3-401(4) allows the Board to execute rules to carry out its duties and responsibilities under the Utah Constitution and state law.

Subsection 53G-6-503(2) directs the Board to make rules for a student transferring between a charter school and the student's boundary school within the student's district of residence and enrolling and withdrawing from charter schools.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There were no public comments received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary because it provides procedures for a student transferring between a charter school and the student's boundary school within the student's district of residence. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	**Date:**	03/08/2024

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	**R277-724**	**Filing ID: 52360**
Effective Date:	**03/08/2024**	

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 catchline:
R277-724. Criteria for Sponsors Recruiting Day Care Facilities in the Child and Adult Care Food 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:
This rule is authorized pursuant to the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Utah State Board of Education (Board). Subsection 53E-3-401(4) allows the Board to execute rules to carry out its duties and responsibilities under the Utah Constitution and state law. Subsection 53E-3-501(3) authorizes the Board to administer and distribute funds made available through programs of the federal government.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There were no public comments received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary because it establishes eligibility criteria for new sponsoring organizations to recruit facilities for child care centers and day care homes in unserved areas. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	**Date:**	03/08/2024

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R590-226**	**Filing ID: 55262**
Effective Date:	**03/07/2024**	

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 catchline:
R590-226. Submitting Life Insurance Filings
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code. Section 31A-2-201.1 authorizes the insurance commissioner to regulate the filing of rates, forms, and reports.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department of Insurance (Department) has received no written comments regarding this rule during the past five years.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
It is important that this rule remains in force to allow the Department to provide uniformity among life insurance companies active in the Utah. It allows for uniformity in how a company filing is made and the information and

documentation to be included, which allows for a uniform review of these forms by the Department. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	**Date:**	03/07/2024

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R590-227**	**Filing ID: 55376**
Effective Date:	**03/07/2024**	

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 catchline:
R590-227. Submitting Annuity Filings
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code. Section 31A-2-201.1 authorizes the insurance commissioner to regulate the filing of rates, forms, and reports.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department of Insurance (Department) has received no written comments regarding this rule during the past five years.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
It is important that this rule remains in force to allow the Department to provide uniformity among life and annuity insurance companies active in Utah. It allows for uniformity in how a company filing is made and the information and documentation to be included, which allows for a uniform review of these forms by the Department. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	**Date:**	03/07/2024

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R590-228**	**Filing ID: 55848**
Effective Date:	**03/07/2024**	

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 catchline:
R590-228. Submitting Credit Life and Credit Accident and Health Insurance Filings

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code. Section 31A-2-201.1 authorizes the insurance commissioner to regulate the filing of rates, forms, and reports.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department of Insurance (Department) has received no written comments regarding this rule during the past five years.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
It is important that this rule remains in force to allow the Department to provide uniformity among companies selling credit life, and credit accident and health products in Utah. This rule allows for uniformity in how a company filing is made, and the information and documents to be included, which allows for a uniform review of these rates and forms. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	**Date:**	03/07/2024

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R590-268**	**Filing ID: 55276**
Effective Date:	**03/07/2024**	

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 catchline:
R590-268. Small Employer Stop-Loss Insurance
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code. Section 31A-43-304 authorizes the Insurance Commissioner to adopt rules to implement Title 31A, Chapter 43, Small Employer Stop-Loss Insurance Act, related to the regulation of small employer stop-loss products.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department of Insurance (Department) has received no written comments regarding this rule during the past five years.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule authorizes the Insurance Commissioner to set the content of the stop-loss insurance disclosure, prohibit lasering, and establish the form and manner of rate and form filings and of the annual actuarial certification and report on stop-loss experience. The Department uses the provisions of this rule to effectively regulate the health insurance market. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	**Date:**	03/07/2024

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R597-4**	**Filing ID: 52955**
Effective Date:	**03/13/2024**	

Agency Information

1. Department:	Judicial Performance Evaluation Commission	
Agency:	Administration	
Room number:	Suite 330	
Building:	Senate Building	
Street address:	350 State Street	
City, state and zip:	Salt Lake City, UT 84114	
Contact persons:		
Name:	**Phone:**	**Email:**
Mary-Margaret Pingree	385-910-2097	mmpingree@utah.gov
Madison Klein	801-538-1146	mklein@utah.gov

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

General Information

2. Rule catchline:

R597-4. Justice Courts

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Title 78A, Chapter 12, outlines the provisions of the Judicial Performance Evaluation Commission Act.

Rulemaking authority is required or granted in the following sections:
Subsection 78A-12-203(9) allows the Judicial Performance Evaluation Commission (Commission) to make rules as necessary to administer judicial performance evaluations.

Subsection 78A-12-204(11) allows the Commission to make rules as necessary to administer the judicial performance survey.

Subsection 78A-12-205(3) allows the Commission to make rules about certification standards.

Specifically for justice court judges, Subsection 78A-12-207(4)(a) allows the Commission to create standards by administrative rule.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments have been received since the last five-year review of this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The Utah Code allows the Commission to make rules to effectively administer the judicial evaluation process. The Utah Code provides high level direction, but the administrative rules provide detailed guidance critical to an effective and fair process. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Mary-Margaret Pingree, Executive Director	**Date:**	03/07/2024

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	**R657-62**	**Filing ID: 56249**
Effective Date:	**03/13/2024**	

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:

R657-62. Drawing Application Procedures

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 authority of Sections 23A-2-304 and 23A-2-305, the Wildlife Board has established this rule for drawing applications and procedures and to authorize 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.

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 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:

Rule R657-62 provides the authority, standards, and procedures for accepting applications for wildlife drawings. This rule is necessary for continued success with the annual drawings. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Justin Shirley, Division Director	**Date:**	03/13/2024

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		
Rule Number:	**R622-2**	**Filing ID: 51508**
Effective Date:	**03/20/2024**	

Agency Information

1. Department:	Lieutenant Governor	
Agency:	Administration	
Street address:	350 N State St, Suite 220	
City, state, and zip:	Salt Lake City. UT 84114	
Contact person(s):		
Name:	**Phone:**	**Email:**
Nancy L. Lancaster	801-957-7102	rulesonline@utah.gov

General Information

2. Title of rule (catchline)**:**
R622-2. Use of the Great Seal of the State of Utah
3. 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
Marketing and Development
No. 56278 (Repeal and Reenact) R65-1: Utah Apple Marketing Order
Published: 02/01/2024
Effective: 03/26/2024

No. 56279 (Repeal and Reenact) R65-5: Utah Red Tart and Sour Cherry Marketing Order
Published: 02/01/2024
Effective: 03/26/2024

Education
Administration
No. 56284 (Amendment) R277-100: Definitions for Utah State Board of Education (Board) Rules
Published: 02/01/2024
Effective: 03/11/2024

No. 56285 (New Rule) R277-111: Board Oversight Framework
Published: 02/01/2024
Effective: 03/11/2024

No. 56286 (Amendment) R277-114: Corrective Action and Withdrawal or Reduction of Program Funds
Published: 02/01/2024
Effective: 03/11/2024

No. 56287 (Amendment) R277-304: Teacher Preparation Programs
Published: 02/01/2024
Effective: 03/11/2024

No. 56288 (Amendment) R277-716: Alternative Language Services for Utah Students
Published: 02/01/2024
Effective: 03/11/2024

Health and Human Services
Integrated Healthcare
No. 56258 (Amendment) R414-90: Diabetes Self-Management Training
Published: 01/15/2024
Effective: 03/25/2024

No. 56259 (Repeal) R414-310: Medicaid Primary Care Network Demonstration Waiver
Published: 01/01/2024
Effective: 03/25/2024

No. 56260 (Amendment) R414-504: Nursing Facility Payments
Published: 01/01/2024
Effective: 03/25/2024

Data, Systems and Evaluation, Vital Records and Statistics
No. 56173 (Amendment) R436-9: Persons and Institutions Required to Keep Monthly Listings of Vital Statistics Events
Published: 12/01/2023
Effective: 03/25/2024

Insurance
Administration
No. 56282 (Amendment) R590-271: Data Reporting for Consumer Quality Comparison
Published: 02/01/2024
Effective: 03/11/2024

Natural Resources
Outdoor Recreation
No. 56280 (New Rule) R650-102: Adjudicatory Proceedings
Published: 02/01/2024
Effective: 03/19/2024

Wildlife Resources
No. 55876 (Amendment) R657-13: Prohibited Fish List
Published: 02/01/2024
Effective: 03/13/2024

No. 56276 (Amendment) R657-33: Taking Bear
Published: 02/01/2024
Effective: 03/13/2024

No. 56281 (Amendment) R657-51: Poaching-Reported Reward Permits
Published: 02/01/2024
Effective: 03/13/2024

No. 56277 (Amendment) R657-62: Drawing Application Procedures
Published: 02/01/2024
Effective: 03/13/2024

Public Safety
Driver License
No. 55755 (Repeal and Reenact) R708-31: Ignition Interlock Systems
Published: 10/15/2023
Effective: 03/12/2024

No. 55755 (Change in Proposed Rule) R708-31: Ignition Interlock Systems
Published: 02/01/2024
Effective: 03/12/2024

No. 55756 (Repeal and Reenact) R708-48: Ignition Interlock System Program
Published: 10/15/2023
Effective: 03/12/2024

No. 55756 (Change in Proposed Rule) R708-48: Ignition Interlock System Program
Published: 02/01/2024
Effective: 03/12/2024

Workforce Services
Employment Development
No. 56310 (Amendment) R986-700: Child Care Assistance
Published: 02/15/2024
Effective: 04/01/2024

End of the Notices of Rule Effective Dates Section