

UTAH STATE BULLETIN

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

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

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

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

Office of Administrative Rules, Salt Lake City 84114

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NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between May 16, 2024, 12:00 a.m., and May 31, 2024, 11:59 p.m. are included in this, the June 15, 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 Rules being repealed are completely struck out.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 July 15, 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 October 14, 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 SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R66-5	Filing ID: 56533

Agency Information

1. Title catchline:	Agriculture and Food, Medical Cannabis and Industrial Hemp	
Building:	Taylorsville State Office Building, South Building	
Street address:	4315 S 2700 W	
City, state:	Taylorsville, UT	
Mailing address:	PO Box 146500	
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:
R66-5. Medical Cannabis Pharmacy
3. Purpose of the new rule or reason for the change:
Changes are needed to ensure this rule is consistent with statutory changes passed in H.B. 233, Medical Cannabis Amendments, during the 2024 General Session. Additional clarifications have been added based on Department of Agriculture and Food (Department) needs that have arisen as medical cannabis pharmacies have transitioned to Department management.
4. Summary of the new rule or change:
In Section R66-5-2, this rule is clarified to ensure that pharmacy medical providers (PMP) satisfy new requirements in Subsection 4-41a-102(47). In Sections R66-5-4 and R66-5-5, language is added allowing pharmacists in charge to manage inventory pursuant to Subsection 4-41a-1101(12).

In Section R66-5-7, a requirement is added for a PMP to always carry their registration card and clarifications are added regarding visitor logs.
In Section R66-5-9, clarifications are added regarding the information that must be contained on a transport manifest.
Storage requirements are added in a new Section R66-5-10.
A new Section R66-5-18 and Section R66-5-19 have been added requiring notice of change in operating plans and outlining procedures for license renewal.
Language has been added in Section R66-5-21 delineating geographic regions, as allowed by Subsection 4-41a-1005(1).
Finally, violation procedures are set forth in Section R66-5-27.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
These changes are clarifying in nature and will not impact the state budget because they provide additional detail regarding how the Department administers the program rather than change current practices.
B) Local governments:
Local governments are not licensed under the cannabis program and will not be impacted by the rule change.
C) Small businesses ("small business" means a business employing 1-49 persons):
The clarifying rule changes may have a minimal fiscal impact on small businesses. The Department estimates a cost of \$1,000 per each of the state's 15 medical cannabis pharmacies in fiscal year 2025 to cover the cost of printing updated visitor logs and transport manifests and purchasing new storage shelving. Approximately 7 of the 15 pharmacies qualify as small businesses for a total cost of \$7,000.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The clarifying rule changes may have a minimal fiscal impact on non-small businesses. The Department estimates a cost of \$1,000 per each of the state's 15 medical cannabis pharmacies in fiscal year 2025 to cover the cost of printing updated visitor logs and transport manifests and purchasing new storage shelving.

Approximately 8 of the 15 pharmacies qualify as non-small businesses for a total cost of \$8,000.

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

Other persons do not participate in the medical cannabis program and will not be impacted by the rule change.

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

Compliance costs for affected will be impacted with an estimated cost of \$1,000 per pharmacy to print new transport manifests and visitor logs and purchase shelving to satisfy storage requirements.

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

Regulatory Impact Table			
Fiscal Cost	FY2025	FY2026	FY2027
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$7,000	\$0	\$0
Non-Small Businesses	\$8,000	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$15,000	\$0	\$0
Fiscal Benefits	FY2025	FY2026	FY2027
State Government	\$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	\$(15,000)	\$0	\$0

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

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

Citation Information

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

Section 4-41a-1101	Section 4-2-103	
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Public Notice Information

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

A) Comments will be accepted until:	07/15/2024
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9. This rule change MAY become effective on:	07/22/2024
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Craig W. Buttars, Commissioner	Date:	05/31/2024
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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.

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(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 that meets the criteria defined in Subsection 4-41a-1101(12).

(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)]~~4-41a-102(47).

(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~~[-]; and~~

(iii) procedures for a PIC to determine the pharmacy's medical cannabis inventory under Subsection 4-41a-1101(12).

(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) determine the medical cannabis pharmacy's inventory of medical cannabis and medical cannabis products;

~~[(b)c]~~ 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;

~~[(e)d]~~ 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;

~~[(f)e]~~ ensure that medical cannabis pharmacy personnel receive necessary education and training;

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

~~[(f)g]~~ distribute and dispose of medical cannabis products and medical cannabis devices from a medical cannabis pharmacy;

~~[(g)h]~~ ensure appropriate storage of medical cannabis products and medical cannabis devices;

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

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

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

~~[(h)m]~~ ensure that the point-of-sale is in working order;

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

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

(~~(p)~~) 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

(~~(q)~~) 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 full and 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.

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.

(c) A medical cannabis PMP shall carry their Pharmacy Medical Provider registration card at all times when:

(i) they are on the premises of a medical cannabis pharmacy; and

(ii) they are transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device between a cannabis production establishment and a medical cannabis pharmacy.

(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, contractor, 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 medical cannabis pharmacy shall keep and maintain a log showing:

- (a) the full name of each visitor entering the facility;
- (b) the badge number issued;
- (c) the date and time of arrival;
- (d) the date and time of departure; and
- (e) the purpose of the visit.

(14) The visitor log shall be maintained by the medical cannabis pharmacy for a minimum of one year.

(15) The medical cannabis pharmacy shall make visitor log available to the department upon request.

(1[3]6)(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.

(1[4]7) 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.

(1[5]8) 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.

(1[6]9)(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.

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(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.

(1[+]2) 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.]~~

_____ (3)(a) A printed transport manifest shall accompany each transport of cannabis.

_____ (b) The manifest shall contain the following information:

- _____ (i) the cannabis pharmacy address and license number of the departure location;
- _____ (ii) physical address and license number of the receiving location;

_____ (iii) strain name, quantities by weight, and unique identification numbers of each cannabis material to be transported;

_____ (iv) date and time of departure;

_____ (v) estimated date and time of arrival; and

_____ (vi) name and signature of each agent accompanying the cannabis.

_____ (4) A PMP or pharmacy agent accepting a shipment of medical cannabis or medical cannabis device at a medical cannabis pharmacy facility from a cannabis production establishment shall:

_____ (a) be given a copy of the transport manifest from the cannabis production establishment or medical cannabis pharmacy;

_____ (b) ensure that the cannabis material received is as described in the transport manifest and shall:

_____ (i) record the amounts received for each strain into the inventory control system; and

_____ (ii) document any differences between the quantity specified in the transport manifest and the quantities received in the inventory control system and report difference to the department;

_____ (c) not delete, void, or change information provided on the transport manifest upon arrival at the medical cannabis pharmacy;

_____ (d) clearly record on the manifest the unique initial or identification code of the medical cannabis pharmacy employee who compares the received inventory with the transport manifest and the actual date and time of receipt of the medical cannabis product or medical cannabis devices;

_____ (e) if a difference between the quantity specified in the transport manifest and the quantity received occurs, document the difference in the ICS; and

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

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

(6)(a) A medical cannabis pharmacy may write notes on the manifest to document discrepancies.

(b) A medical cannabis pharmacy may reject a shipment from a cannabis processing establishment.

R66-5-10. 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.

R66-5-1[0]1. 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.

R66-5-1[1]2. 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.

R66-5-1[2]3. 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.

R66-5-1[3]4. 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;

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(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.

R66-5-1[4]5. 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.

R66-5-1[5]6. 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.

R66-5-1[6]7. 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.

R66-5-18. Change in Operating Plans.

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

(a) ownership or financial backing of the facility;

(b) the facility's name;

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

(d) change to the protected areas; and

(e) any other information requested by the department.

(2) Pursuant to Subsection 4-41a-201.1(7), a medical cannabis pharmacy may not implement changes to the initial approved operation plan without board approval.

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

R66-5-19. Pharmacy License and Renewal.

(1) Each cannabis pharmacy license shall expire one calendar year from the date of licensure.

(2)(a) A medical cannabis pharmacy shall submit a notice of intent to renew to the department within 30 days of receiving a notice of expiration from the department.

(b) If the intent to renew is not submitted to the department, the licensee may not continue to operate.

(3) If the licensing fee is not paid by the expiration date, the licensee may not continue to operate.

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

R66-5-~~17~~20. 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)]~~R66-5-20(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.

R66-5-21. Geographic Regions.

(1) Pursuant to Subsection 4-41a-1005(1), the department shall divide the state into geographic regions based on:

(a) overall population;

(b) patient population; and

(c) travel time.

(2) The department establishes the following geographic regions by county:

(a) Region 1- Northern Utah:

(i) Box Elder;

(ii) Cache; and

(iii) Rich

(b) Region 2 - Weber Basin

(i) Davis;

(ii) Morgan; and

(iii) Weber;

(c) Region 3 - Salt Lake:

(i) Salt Lake;

(ii) Summit; and

(iii) Tooele;

(d)Region 4 - Uintah Basin:

(i) Daggett;

(ii) Duchesne; and

(iii) Uintah;

(e) Region 5 - West Central:

(i) Juab;

(ii) Sanpete;

(iii) Utah; and

(iv) Wasatch;

(f) Region 6- Central:

(i) Carbon;

(ii) Emery;

(iii) Millard;

(iv) Piute;

(v) Sevier; and

(vi) Wayne;

(g) Region 7 - Southwest:

(i) Beaver;

(ii) Garfield;

(iii) Iron;

(iv) Kane; and

- ~~(v) Washington; and~~
- ~~(h) Region 8 - Southeast;~~
- ~~(i) Grand; and~~
- ~~(ii) San Juan.~~

R66-5-~~148~~22. 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-~~149~~23. 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;

(~~e~~)b) determine or modify dosing guidelines in a patient's recommendation; or

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

R66-5-2~~10~~4. 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.

R66-5-2[4]5. 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.

R66-5-2[2]6. 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.

R66-5-27. Violation 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) cannabis sold to an unlicensed source;

(b) cannabis purchased from an unlicensed source;

(c) refusal to allow inspection;

(d) failure to comply with pharmacist in charge requirements;

(e) failure to maintain required general operating standards;

(f) failure to comply with product recall requirements;

(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, Medical Cannabis Pharmacy Operation and Agents, 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:

(a) failure to maintain alarm and security systems;

(b) failure to keep and maintain records for at least five years;

(c) failure to maintain traceability;

(d) failure to follow transportation requirements;

(e) failure to follow the waste and disposal requirements;

(f) failure to follow the walk- up, drive-thru, delivery, and curbside service requirements;

(g) failure to follow targeted marketing requirements;

(h) failure to follow agent duties and responsibilities requirements; or

(i) engaging in or permitting a violation of Title 4, Chapter 41a, Medical Cannabis Pharmacy Operation and Agents or this rule which amounts to a regulatory violation as described in this subsection;

(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 10%;

(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, Medical Cannabis Pharmacy License 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: medical cannabis, medical cannabis pharmacy, marijuana

Date of Last Change: ~~May 13,~~ 2024

Authorizing, and Implemented or Interpreted Law: 4-41a-1101(12), 4-41a-1104(4), 4-2-103(1)(i)

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R66-9	Filing ID: 56534

Agency Information

1. Title catchline:	Agriculture and Food, Medical Cannabis and Industrial Hemp
Building:	Taylorville Office Building, South Building
Street address:	4315 S 2799 W
City, state:	Taylorville, UT
Mailing address:	PO Box 146500
City, state and zip:	Salt Lake City, 84114-6500

Contact persons:		
Name:	Phone:	Email:
Amber Brown	385-245-5222	ambermbrown@utah.gov
Brandon Forsyth	801-816-3842	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:
Changes are needed to ensure this rule is consistent with statutory changes passed in S.B. 233, Cannabis Amendments, during the 2024 General Session, as well as make necessary clarifications identified as the Department of Agriculture and Food (Department) has taken over management of medical cannabis pharmacies.
4. Summary of the new rule or change:
The definition of "medical cannabis pharmacy" has been added to Section R66-9-2.
Clarifications are added to the licensing process delineated in Section R66-9-3.
References to "pharmacy" have been added throughout this rule consistent with the Department's current management of pharmacies and the movement of pharmacies under the medical cannabis licensing board in S.B. 233 (2024).

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The state budget will not be impacted by the rule changes because the changes are clarifying in nature.
The Department previously administered licensing and will continue to do so with the approval of the licensing board.
B) Local governments:
Local governments are not impacted by the change because they do not participate in the medical cannabis program.

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

Small businesses will not be impacted by the change. The requirements for obtaining a licensing are not changing, they are just clarified.

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

Non-Small businesses will not be impacted by the change. The requirements for obtaining a licensing are not changing, they are just clarified.

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

Other persons will not be impacted and do not participate in the medical cannabis program.

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

Compliance costs and licensing requirements are not changing.

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	FY2025	FY2026	FY2027
State Government	\$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	FY2025	FY2026	FY2027
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Commissioner of the Department of Agriculture and Food, Craig W. Buttars, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 4-41a-201	Section 4-2-103	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	07/15/2024

9. This rule change MAY become effective on:	07/22/2024
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:	05/24/2024
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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.
- (7) "Medical cannabis pharmacy" means a person that:
 - (a)(i) acquires or intends to acquire medical cannabis or a cannabis product in a medicinal dosage form from a cannabis processing facility or another medical cannabis pharmacy or a medical cannabis device; or
 - (ii) possesses medical cannabis or a medical cannabis device; and
 - (b) sells or intends to sell medical cannabis or a medical cannabis device to a medical cannabis cardholder.

R66-9-3. Cannabis Production Establishment and Pharmacy 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 Department will solicit applications for medical cannabis pharmacy licenses if the conditions in Subsection 4-41a-1005(1)(d)(i) are met.
 - (6) 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.
 - (7) If there are more qualified applicants than available licenses, the department will evaluate the applicants pursuant to Subsection 4-41a-1005(2)
- ([§]8) 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

NOTICES OF PROPOSED RULES

(c) a department official has conducted an inspection as described in Section ~~[R68-38-4]~~R66-9-4.

~~(6)2~~ The department shall forward to the Board the information and recommendation to aid in the license determination.

~~(7)10~~ 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 or Section 4-41a-1001; 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]~~ a reasonable time of receiving a completed cannabis processing facility or independent cannabis testing laboratory application.

(4) Consistent with Subsection ~~[R68-38-3(1)]~~ R66-9-3(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)]~~ R66-9-3(8) 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 applicant's 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 or medical cannabis pharmacy:

(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 or medical cannabis pharmacy 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 or medical cannabis pharmacy, 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 and Pharmacy 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: ~~May 13,~~ 2024
Authorizing, and Implemented or Interpreted Law: 4-2-103; 4-41a-201(2)(a)(ii)

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R70-530	Filing ID: 56529

Agency Information

1. Title catchline:	Agriculture and Food, Regulatory Services	
Building:	Taylorsville State Office Building, South Building	
Street address:	4315 S 2700 W	
City, state:	Taylorsville, UT	
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
Travis Waller	801-971-4943	twaller@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:
R70-530. Food Protection

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

Changes are needed to incorporate the latest version of the FDA Food Code with exceptions needed by the Department of Agriculture and Food (Department), including those consistent with Rule R392-100 from the Department of Health and Human Services.

4. Summary of the new rule or change:

In the filing, Subsection R70-530-3(1) is updated to incorporate the most recent versions of 21 CFR, 1-200, 40 CFR 185, and 9 CFR 200.

Subsection R70-530-3(2) has also been updated to incorporate the 2022 version of the U.S. Public Health Service, Food and Drug Administration Food Code (Food Code), rather than the 2013 version, with some exceptions.

In Subsection R70-530-3(3), Annex I of the Food Code is incorporated with some exceptions.

In Subsection R70-530-3(4), Annex 2 is incorporated.

In Subsection R70-5303(5), modifications to the Food Code as incorporated are outlined. This rule change includes changes in the incorporation related to the following paragraphs or Sections: Paragraph 2-1-2.12(A); Paragraph 3-201.17(B); Paragraph 3-501.17(G) (exception removed); Subparagraph 3-501.19(B)(2) (exception removed); Paragraph 4-204.123(B) (exception removed); Paragraph 5-203.14; Paragraph 6-501.115(B); and Section 8-103.11.

Other nonsubstantive changes in the rule have been made for clarity as well.

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.

These changes will not change the Department's administration of the retail food program or inspection process or workload. The only changes would involve updating training and adding some new coding in the food safety management system, which involves minimal if any cost.

B) Local governments:

Local governments are not regulated by the Department and will not be impacted by these changes.

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

There is no anticipated cost or savings to small businesses.

The changes for businesses will be minimal and clarifying in nature and do not include additional compliance costs that can be estimated by the Department.

Several of the changes are nonsubstantive and involve consolidating exclusions and reorganizing references to improve clarity.

Other changes are generally clarifying in nature. Specifically: Subsection R70-530-3(5)(f) clarifies who must be a certified food safety manager but does not change the requirement that one employee receive the necessary training; and Subsection R70-530-3(5)(h) will allow businesses to sell wild game products that were not previously saleable. Any cost of documentation and tracking should be offset by sales revenue.

The Department cannot estimate the fiscal impact of the additional sales because the Department does not require business to keep records of each sale, does not have that information, and is not aware of how many non-compliant comingled products are currently sold, if any.

Subsection R70-530-3(5)(k) clarifies plumbing but does not add additional plumbing requirements.

Subsection R70-530-3(5)(n) adds additional clarity and detail with respect to the circumstances under which animals are allowed in the food establishment, although the general requirements have not changed with the exception of added signage requirements for outdoor areas which carry a minimal cost that the Department cannot estimate due to multiple factors that could impact the cost of signage.

Finally, the changes in Subsection R70-530-3(5)(o) with respect to variance procedures are also clarifying in nature and do not change current general requirements.

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

There is no anticipated cost or savings to non-small businesses.

The changes for businesses will be minimal and clarifying in nature and do not include additional compliance costs that can be estimated by the Department.

Several of the changes are nonsubstantive and involve consolidating exclusions and reorganizing references to improve clarity.

Other changes are generally clarifying in nature. Specifically: Subsection R70-530-3(5)(f) clarifies who must be a certified food safety manager but does not

change the requirement that one employee receive the necessary training.

Subsection R70-530-3(5)(h) will allow businesses to sell wild game products that were not previously saleable. Any cost of documentation and tracking should be offset by sales revenue.

The Department cannot estimate the fiscal impact of the additional sales because the Department does not require business to keep records of each sale, does not have access to that information, and is not aware of how many non-compliant comingled products are currently sold, if any.

Subsection R70-530-3(5)(k) clarifies plumbing but does not add additional plumbing requirements.

Subsection R70-530-3(5)(n) adds additional clarity and detail with respect to the circumstances under which animals are allowed in the food establishment, although the general requirements have not changed with the exception of added signage requirements for outdoor areas which carry a minimal cost that the Department cannot estimate due to multiple factors that could impact the cost of signage.

Finally, the changes in Subsection R70-530-3(5)(o) with respect to variance procedures are also clarifying in nature and do not change current general requirements.

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

Other persons will not be impacted by this rule change because they are not registered food establishments.

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

Compliance costs for affected persons will not change because the changes are generally clarifying in nature and do not impose additional compliance requirements.

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

Regulatory Impact Table			
Fiscal Cost	FY2025	FY2026	FY2027
State Government	\$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	FY2025	FY2026	FY2027
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Commissioner of the Department of Agriculture and Food, Craig W. Buttars, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 4-5-104	Subsection 4-4-107(6)	

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 1-200
Publisher	US Government Printing Office
Issue Date	April 11, 2024

B) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	40 CFR 180
Publisher	US Government Printing Office
Issue Date	May 14, 2024

C) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	9 CFR 200 to End
Publisher	US Government Printing Office
Issue Date	April 8, 2024

D) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	US Public Health Service, Food and Drug Administration, Food Code
Publisher	US Food and Drug Administration
Issue Date	2022

E) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	US Public Health Service, Food and Drug Administration, Food Code, Annex 1
Publisher	US Food and Drug Administration
Issue Date	2022

F) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	US Public Health Service, Food and Drug Administration, Food Code, Annex 2
Publisher	US Food and Drug Administration
Issue Date	2022

G) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	21 U.S.C 342
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Publisher	US Government Printing Office
Issue Date	January 5, 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:	07/15/2024

9. This rule change MAY become effective on:	07/25/2024
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:	05/16/2024
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R70. Agriculture and Food, Regulatory Services.

R70-530. Food Protection.

R70-530-1. Authority and Purpose.

(1) This rule is promulgated under the authority of Sections 4-5-104, 4-4-102, and Subsection 4-4-107(6).

(2) This rule shall be applied to ~~promote its purpose of safeguarding~~ safeguard public health and providing consumers food that is safe, unadulterated, and honestly presented.

R70-530-2. Scope.

This rule establishes definitions; sets standards for management and personnel, food operations, equipment, and facilities; and provides for food establishment plan review, inspection, and employee restriction. It shall be used to regulate bakeries, grocery and convenience stores, meat markets, food and grain processors, warehouses, and any other establishment meeting the definition of a food establishment.

R70-530-3. Incorporation by Reference.

(1) The food standards, labeling requirements, and procedures as specified in 21 CFR, 1 through 200, April ~~[1, 2019]~~ 11, 2024 edition, 40 CFR 18~~[5]~~ 0, ~~[April 17, 2012]~~ May 14, 2024 edition, and 9 CFR 200 to End, ~~[January 1, 2012]~~ April 8, 2024 edition, are incorporated by reference.

(2) The requirements as found in the 20~~[13]~~ 22 version of the U.S. Public Health Service, Food and Drug Administration, Food Code (Food Code), Chapters 1 through 8 are incorporated by reference with the exclusion of:

- ~~(a) [Section 3-203.13, Subparagraphs 8-302.14(C)(1), Paragraphs 8-302.14(D) and (E),] Paragraph 3-203.13 for small egg producers pursuant to Subsection 4-4-107(6);~~
- ~~(b) Paragraph 8-302.14;~~
- ~~(c) Paragraph 8-304.11(K)[7];~~
- ~~(d) Paragraph 5-203.15(B)[7]; and~~

~~(e) Paragraphs 5-402.11(B), (C) and (D)[7], and exclusion of Section 8-905.40, Subparagraphs 8-905.90(A)(1) and (2),~~

~~Section 8-909.20, Subparagraphs 8-911.10(B)(1) and (2);~~

~~(3) The requirements as found in the Food Code, 2022 version, Annex 1 comprising Parts 8-6 through 8-9 are incorporated by reference with the exclusion of:~~

- ~~(a) Section 8-905.40[7];~~
- ~~(b) Subparagraphs 8-905.90(A)(1) and (2)[7];~~
- ~~(c) Section 8-909.20[7]; and~~
- ~~(d) Subparagraphs 8-911.10(B)(1) and (2)[7]; and~~
- ~~(4) The requirements as found in the Food Code, 2022 version, Annex 2[7] are incorporated by reference.~~

~~[Federal Food, Drug, and Cosmetic Act, 21, U.S.S. 342, Sec. 402 are incorporated by reference, and with the following additions or amendments:]~~

~~(5) The Food Code is incorporated with the following additions or amendments.~~

(a) In Paragraph 1-201.10(B), insert a new subparagraph after subparagraph (b) in subparagraph (2) under "Food Establishment" to read: "(c) A catering operation which is a business entity that operates from a permitted food establishment that contracts with a client for food service to be provided to a client, the client's guests ~~and~~ or customers at a different location. A catering operation may cook or perform final preparation of foods at the service location. A catering operation does not include routine services offered at the same location, or meals that are individually purchased with the exception of cash bars."

(b) In paragraph ~~1~~-201.10(B), insert a new subparagraph after subparagraph (2) under "Core Item" to read: "(3) 'Core Item' will also be referred to as 'non-critical' in the state rule."

(c) In Paragraph 1-201.10(B) under "Priority Item", replace the semicolon and the word "and" at the end of subparagraph (2) with a period; replace the period at the end of subparagraph (3) with "; and"; and insert a new subparagraph after paragraph (3) to read: "(4) 'Priority Item' will also be referred to as 'critical 1' in the state rule."

(d) In paragraph 1-201.10(B) under "Priority Foundation Item," replace the semicolon and the word "and" at the end of subparagraph (2) with a period; replace the period at the end of subparagraph (3) with "; and"; and add a new subparagraph after subparagraph (3) to read: "(4) 'Priority foundation item' will also be referred to as 'critical 2' in the state rule."

(e) After subparagraph 2-102.11 (17), add a new section to read: "2-102-1~~[2]~~ 3 Food Employee Training. Food employees shall be trained in food safety as required under ~~[26-45-5]~~ Section 26B-7-413 and shall hold a valid food handler's permit issued by a local health department."

~~(f) Amend Subparagraph 2-102.12(A) to read: "(A) At least one employee who has supervisory and management responsibility and 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."~~

~~([f]g) Amend Paragraph 3-201.16 (A) to read: "Except as specified in paragraph (B) of this section, mushroom species picked in the wild shall not be offered for sale or service by a food establishment."~~

~~(h) After Paragraph 3-201.17(B), add a new paragraph to read: "(5) A business may provide wild game products to an end consumer without the benefit of an inspection if wild game is brought into the facility by the consumer, processed and returned to the same consumer. (a) A wild game processor may commingle wild game~~

products under the following conditions: (A) wild game trim may be commingled to make a batch of jerky or other processed product with trim derived from the same season; (B) wild game meat or product from previous seasons may not be used in processed products during the current season; (C) the processor shall maintain a record of each batch of ground meat intended for each batch of product that includes a tag ID number for each batch; (D) each batch shall be composed of consecutive animals or customers; (E) each customer shall receive a finished product that contains a portion of meat derived from their animal; and (F) the processor shall obtain a signed disclosure and consent document for each customer that includes the Tag ID number."

~~[(g) After Paragraph 3-501.17(G), add a new paragraph to read: "(H) A date marking system that meets the criteria stated in paragraph (A) of this section 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: (1) before which food must be used as specified in paragraph (A) of this section; or (2) be the date of Day 1."~~

~~[(h) Amend Subparagraph 3-501.19(B)(2) to read: "(2) 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 the food is removed from temperature control; or (b) the time before which the food shall be cooked and served, served at any temperature if ready to eat, or discarded."~~

~~[(i) After Paragraph 4-204.123(B), add a section to read: "4-204.124 Restraint of Pressurized Containers. Carbon dioxide, helium or other similar pressurized containers must be restrained or secured to prevent the tanks from falling over."]~~

~~[(j)] At the end of section 5-101.12, add: "The process shall be in accordance with the American Water Works Association (AWWA) C651-2005 for disinfection and testing."~~

~~[(k)] Replace section 5-202.13, with the following: "(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 floor 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). (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 floor 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)."~~

~~[(k) Amend paragraph 5-203.14 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."~~

~~[(l) Amend Paragraph 5-203.15(A) to read: "If not provided with an air gap as specified under Section 5-202.13, an American Society of Sanitary Engineering (ASSE) 1022 dual check valve with an intermediate vent shall be installed upstream from a carbonating device and downstream from a copper in the water supply line."~~

(m) Amend Paragraph 5-402.11(A) to read: "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."

(n) Amend paragraph 6-501.115(B) 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) Amend section 8-103.11 to add:~~

~~[(i) "(D) In addition, a variance from section 3-301.11 may be issued only when:~~

NOTICES OF PROPOSED RULES

~~(1) the variance is limited to a specific task or workstation;~~
~~(2) the applicant has demonstrated good cause why section 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."~~

(o) Amend section 8-103.11 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."

~~(e) Amend Section 8-302.14 to renumber (F) to (D), (G) to (E), and (H) to (F).]~~

(p) Amend Paragraph 8-304.10(A) to read:

(A) Upon request, the regulatory authority shall provide a copy of the Utah Food Protection Rule according to the policy of the local regulatory agency.

(q)(i) Amend subparagraph 8-401.10(A) to read: "(A) Except as specified in paragraphs (B) and (C) of this section, the regulatory authority shall inspect a food establishment at least once every 6 months.

(ii) Amend subparagraph 8-401.10(B)(2) to read: "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".

(r) Add Paragraph 8-501.10(C) to read: (C) Meeting reporting requirements under Communicable Disease Rule R386-702 and Injury Reporting Rule R386-703.

(s) ~~[Amend Section]~~ Add "8-6 Enforcement; 8-601.10 ~~[to read:]~~ Due process and equal protection shall be afforded as required by law in all enforcement and regulatory actions. Enforcement of this rule shall be in accordance with Subsection 4-2-2(J), , Section 4-2-12, and Rule R70-201."

(t) Add "8-7 Penalties; 8-701.10 State Construction Code, all parts of the food establishment shall be designed, constructed, maintained, and operated to meet the standards of the state construction code adopted by the Utah Legislature under Title 15A UCA. A copy of the construction code is available at the office of the local building inspector."

~~(u) Exempt Section 3-203.13 for small egg producers pursuant to Subsection 4-4-107(6).]~~

(6) The Food, Drug, and Cosmetic Act, 21, U.S.C. 342, January 5, 2023 version is incorporated by reference.

([4]7) All references to food that requires time or temperature control for safety, TCS, in this rule are equivalent to references in past editions of the U.S. Public Health Service, Food and Drug Administration, Food Code to potentially hazardous food, PHF.

KEY: food, inspections

Date of Last Change: [February 27, 2023]2024

Notice of Continuation: December 28, 2021

Authorizing, and Implemented or Interpreted Law: 4-5-104; 4-4-107(6); 4-4-102

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R156-26a	Filing ID: 56531

Agency Information

1. Title catchline:	Commerce, Professional Licensing	
Building:	Heber M. Wells Building	
Street address:	160 E 300 S	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 146741	
City, state and zip:	Salt Lake City, UT 84114-6741	
Contact persons:		
Name:	Phone:	Email:
Tracy Taylor	801-530-6628	trtaylor@utah.gov

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

General Information

2. Rule or section catchline:	R156-26a. Certified Public Accountant Licensing Act Rule
3. Purpose of the new rule or reason for the change:	The proposed amendments update this rule to align with changes to the AICPA Uniform CPA Examination and continuing education reporting requirements.
4. Summary of the new rule or change:	The amendments update this rule to align the education requirements with changes to the AICPA Uniform CPA Examination and Continuing Education Reporting Requirement.

Section R156-26a-102 updates definitions pertaining to CPE reporting and education accreditation.

Section R156-26a-302a updates the education standards to align with the changes to the AICPA Uniform CPA Examination.

Section R156-26a-302c updates the minimum education standard to sit for the AICPA Uniform CPA Examination consistent with the changes made in Section R156-26a-302a.

Formatting changes are also made throughout this rule consistent with OAR's Rulewriting Manual for Utah and to update citation references.

Public Hearing Information:

The hearing will be on 06/18/2024 at 2 PM at the Heber Wells Building at 160 E 300 S, 4th Floor Conference Room 474, Salt Lake City, UT.

Also via Google Meet:
Join with Google Meet meet.google.com/imt-iuas-ixc

Or join by phone:
(US) +1 575-448-4172
PIN: 688 332 292#

Fiscal Information

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

A) State budget:

The American Institute of CPAs (AICPA) is the national association with representatives in every US state and territory that prescribes national standards for CPAs, and it owns the Uniform CPA Examination that is required nationwide for licensure as a CPA.

The proposed amendments that conform this rule to AICPA Uniform CPA Examination changes are required to keep Utah's education/exam/CPE requirements in line with national standards and describe the requirements for access to the licensure exam, but none of these amendments will have any fiscal impact on state government revenues or expenditures because these changes will not affect or modify any existing state government policies or procedures.

B) Local governments:

The proposed amendments are not expected to have any fiscal impact on local governments' revenues or expenditures because none of the changes will apply to local governments.

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

The proposed amendments are not expected to have any fiscal impact on small businesses' revenues or expenditures because none of the changes will apply to small businesses.

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

The proposed amendments are not expected to have any fiscal impact on non-small businesses' revenues or expenditures because none of the changes will apply to 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**):

The proposed amendments relating to CPE reporting requirements will apply to the 6,321 licensed certified public accountants (CPAs) in Utah and their programs that provide CPE, but the proposed amendments are not expected to have any fiscal impact on these persons because the amendments only update the reference on standards for CPE programs to the newest AICPA/NASBA Statement of Standards for CPE Programs that the CPE industry is already using as required by AICPA/NASBA, and clarify that the venue for reporting CPE is CPE Audit Service, the online CPE reporting system administered by NASBA that CPA licensees use.

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

As described in Box 5E above, the proposed amendments are not expected to impose any compliance costs on any affected persons because they merely update this rule to reference the standards those in the industry are already using and pinpoint the venue for licensee CPE reporting and will not impose any additional financial or non-financial burdens on these 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	FY2025	FY2026	FY2027
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

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Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2025	FY2026	FY2027
State Government	\$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:			
<p>The Executive Director of the Department of Commerce, Margaret W. Busse, has reviewed and approved this regulatory impact analysis.</p> <p>The Division of Professional Licensing, in concert with the Utah Board of Accountancy, proposes to amend Rule R156-26a to align the education requirement with changes to the AICPA Uniform CPA Examination and Continuing Education Reporting Requirement.</p> <p>Section R156-26a-102 updates definitions pertaining to CPE reporting and education accreditation.</p> <p>Section R156-26a-302c updates the minimum education standards to sit for the AICPA Uniform CPA Examination consistent with the changes made in R156-26a-302a.</p> <p>Formatting changes are also made throughout this rule consistent with OAR's Rulewriting Manual for Utah and to update citation references.</p> <p>Small Businesses (less than 50 employees): The proposed amendments are not expected to impose any fiscal impact on small businesses' revenues or expenditures.</p> <p>The proposed amendments merely update and clarify provisions and conform the rule to the AICPA Uniform CPA Examination changes.</p>			

Regulatory Impact to Non-Small Businesses (50 or more employees); The proposed amendments are not expected to impose any fiscal impact on non-small businesses' revenues or expenditures.

The proposed amendments merely update and clarify provisions and conform this rule to the AICPA Uniform CPA Examination changes.

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 58-1-106(1)(a)	Subsection 58-1-202(1)(a)	Section 58-26a-101
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Incorporations by Reference Information

7. Incorporations by Reference:

A) This rule adds or updates the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	Standards for Performing and Reporting on Peer Reviews
Publisher	AICPA (American Institute of Certified Public Accountants)
Issue Date	June 1, 2023

B) This rule adds or updates the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	Code of Professional Conduct
Publisher	AICPA
Issue Date	December 15, 2014
Issue or Version	October 2023

C) This rule adds or updates the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	Statement on Standards for Continuing Professional Education (CPE) Programs
Publisher	AICPA/NASBA (National Association of State Boards of Accountancy)
Issue Date	January 2024

Public Notice Information

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

A) Comments will be accepted until:		07/15/2024
B) A public hearing (optional) will be held:		
Date:	Time:	Place (physical address or URL):
06/18/2024	2:00 PM	See information in Box 4 above,

9. This rule change MAY become effective on: 07/25/2024
 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:	Mark B. Steinagel, Division Director	Date:	05/23/2024
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R156. Commerce, ~~Occupational and~~ Professional Licensing. R156-26a. Certified Public Accountant Licensing Act Rule. R156-26a-101. Title - Authority - Organization.

- (1) This rule is known as the "Certified Public Accountant Licensing Act Rule."^[7]
- (2) This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 26a, Certified Public Accountant Licensing Act.
- (3) The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-101.

R156-26a-102. Definitions.

In addition to the definitions in Title 58, Chapter[s] 1, Division of Professional Licensing Act, and Title 58, Chapter 26a, Certified Public Accountant Licensing Act, as ~~defined or~~ used in this rule:

- (1) "Administering organization" means an organization approved by the Division ~~[of Occupational and Professional Licensing]~~ and the ~~[Utah]~~ Board ~~[of Accountancy which will]~~ to administer peer reviews in the peer review program~~[Peer Review Program]~~.
- (2) "CPE Audit Service" means the online continuing professional education reporting system administered by NASBA.^[8] "Accepted university accreditations" mean the following:
 - ~~(a) the Association to Advance Collegiate Schools of Business ("AACSB");~~
 - ~~(b) the Accreditation Council for Business Schools and Programs ("ACBSP"); or~~
 - ~~(c) an institution receiving "regional accreditation", meaning an institution receiving accreditation through:~~
 - ~~(i) the Northwest Accreditation Commission ("NAC");~~

- ~~(ii) the North Central Association of Colleges and Schools ("NCA");~~
- ~~(iii) the Middle States Association of Colleges and Schools ("MSA");~~
- ~~(iv) the New England Association of Schools and Colleges ("NEASC");~~
- ~~(v) the Southern Association of Colleges and Schools ("SACS"); or~~
- ~~(vi) the Western Association of Schools and Colleges ("WASC");]~~

(3) "Mobility"^[5] a practice privilege included in Section 58-26a-305 regarding exemptions from licensure, is defined and further clarified in Section R156-26a-305.

(4) "Nationally accredited" means an education program accredited by:

- ~~(a) the Association to Advance Collegiate Schools of Business (AACSB); or~~
- ~~(b) the Accreditation Council for Business Schools and Programs (ACBSP).~~

(5) "Non-duplicative" as used in Sections R156-26a-302a and R156-26a-302c means each course is counted only once and may not be used to simultaneously meet the requirements of multiple categories.

~~([4]6)~~ "Qualified continuing professional education (CPE)" ~~[as used in this rule]~~ means continuing education that meets the standards ~~[set forth]~~ in Section R156-26a-303b.^[6]

~~(5) "Standard setting bodies" means any generally recognized accounting standard setting bodies.]~~

(7) "Regionally accredited" means an education program accredited by:

- ~~(a) the Northwest Commission on Colleges and Universities (NWCCU);~~
- ~~(b) the North Central Association of Colleges and Schools (NCA);~~
- ~~(c) the Middle States Commission on Higher Education (MSCHE);~~
- ~~(d) the New England Commission on Higher Education (NECHE);~~
- ~~(e) the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC); or~~
- ~~(f) the Western Association of Schools and Colleges (WASC).~~

~~([6]8)~~ "Unprofessional conduct" ~~[as defined in Title 58, Chapters 1 and 26a,]~~ is further defined, ~~[in accordance with]~~ under Subsection 58-1-203(1)(e), in Section R156-26a-501.

~~([7]9)~~ "Year of review" means the calendar year during which a peer review is to be conducted.^[7]

~~R156-26a-103. Authority.~~

~~This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 26a.~~

~~R156-26a-104. Organization - Relationship to Rule R156-1.~~

~~The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.]~~

R156-26a-201. Advisory Peer Committees Created - Membership - Duties.

(1) There is created ~~[in accordance with]~~ under Subsection 58-1-203(1)(f) the Education Advisory Committee to the ~~[Utah]~~ Board~~[of Accountancy]~~, consisting of one full-time faculty member

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from each of five or more colleges or universities in Utah ~~[which]~~ that has ~~[an]~~ a nationally accredited or regionally accredited program ~~[as set forth in Subsections R156-26a-302a(1)(a) through (e)]~~, a majority of which shall be licensed CPAs.

(2) The Education Advisory Committee shall be appointed and serve ~~[in accordance with]~~ under Section R156-1-205.

(3) The duties and responsibilities of the Education Advisory Committee ~~[shall include assisting]~~ are to assist the Division in collaboration with the Board in their duties, functions, and responsibilities, and ~~[shall]~~ include:

(a) advising the Board as to the acceptability of an educational institution;

(b) assisting the Board to make a final determination ~~[pursuant to]~~ under Section R156-26a-302~~[a(5)(e)]~~^(c) of whether an applicant is qualified to sit for the AICPA ~~[examination]~~ Uniform CPA Examination; and

(c) advising the Board regarding proposed changes to rules.

~~(3)~~⁽⁴⁾ The ~~[committee]~~ Education Advisory Committee shall consider ~~the following~~^[the following] when advising the Board of the acceptability of the educational institution~~[, the following]~~:

- (a) the institution's accreditation;
- (b) the acceptability by other state licensing boards;
- (c) the faculty qualifications; and
- (d) other educational resources.

~~(4)~~⁽⁵⁾ There is created ~~[in accordance with]~~ under Subsection 58-1-203(1)(f), the Peer Review Committee to the ~~[Utah]~~ Board ~~[of Accountancy]~~, consisting of not more than ten licensed CPAs.

(6) The ~~[committee]~~ Peer Review Committee shall be appointed and serve ~~[in accordance with]~~ under Section R156-1-205.

~~(5)~~⁽⁷⁾ The duties and responsibilities of the Peer Review Committee ~~[shall be advising]~~ are to advise the Board on peer review~~[s]~~ matters, and ~~[shall]~~ include:

(a) reviewing the results of peer reviews ~~[administered]~~ by ~~[approved]~~ administering organizations, and as the Peer Review Committee determines necessary, requiring corrective action of firms with significant deficiencies noted in the review ~~[process when considered necessary]~~ in addition to ~~[those]~~ any corrective actions required by the administering organization;

- (b) evaluating compliance of CPE programs;
- (c) performing random audits to determine compliance with the CPE requirements and the standards for CPE programs;
- (d) reviewing complaints and recommending whether certain acts, practices, or omissions violate the ethical standards of the profession;

(e) providing technical assistance to the Division; and

(f) serving as expert witnesses at administrative hearings.

R156-26a-302a. Qualifications for CPA Licensure - Education Requirements.

~~[The education requirements for CPA licensure in Subsection 58-26a-302(1)(d) are defined, clarified, or established as follows:]~~

(1) ~~[An]~~ Under Subsection 58-26a-302(1)(c), an applicant shall submit transcripts showing completion of course work consisting of a minimum of 150 semester hours or ~~[225]~~ quarter hours~~[,]~~ and one of the following:

(a) a graduate degree in accounting or taxation from ~~[an]~~ a nationally accredited education program ~~[institution whose business education is accredited by the AACSB or the ACBSP]~~;

(b) a Master of Business Administration degree from ~~[an]~~ a nationally accredited education program that ~~[institution whose business education program is accredited by the AACSB or the ACBSP and which]~~ includes no less than:

(i) 24 semester hours or ~~[36]~~ quarter hours~~[,]~~ in ~~[upper division or graduate level]~~ upper-division or graduate-level accounting courses covering at least one course in each of the following subjects, with one hour of credit counted for one hour of upper-division course work, and 1.6 hours of credit counted for one hour of graduate-level course work:

- (A) financial accounting;
- (B) auditing;
- (C) taxation;~~[and]~~
- (D) ~~[management]~~ managerial or cost accounting;
- (E) accounting information systems or data analytics; or

(ii) ~~[15]~~⁽¹²⁾ semester hours or 18 quarter hours in ~~[23]~~ quarter hours ~~[graduate level]~~ graduate-level accounting courses covering the following subjects:

- (A) financial accounting;
- (B) auditing;
- (C) taxation;~~[and]~~
- (D) ~~[management]~~ managerial or cost accounting; ~~[or]~~ and
- (E) accounting information systems or data analytics;

~~[(iii) an equivalent combination of graduate and upper division accounting courses covering the subjects of financial accounting, auditing, taxation, and management accounting, with one hour of graduate level course work being equivalent to 1.6 hours of upper division course work;~~

~~_____]~~ (c) a baccalaureate degree in business or accounting from ~~[an]~~ a nationally accredited education program that ~~[institution whose business education program is accredited by the AACSB or the ACBSP, and which]~~ includes no less than:

(i) 24 semester hours or ~~[36]~~ quarter hours~~[,]~~ in non-duplicative upper-division or graduate-level~~[upper division or graduate level]~~ accounting courses covering at least one course in each of the following subjects, with one hour of credit counted for one hour of upper-division course work and 1.6 hours of credit counted for one hour of graduate-level course work:

- (A) financial accounting;
- (B) auditing;
- (C) taxation;~~[and]~~
- (D) ~~[management]~~ managerial or cost accounting; and
- (E) accounting information systems or data analytics; and

(ii) 30 additional semester hours or 45 quarter hours in upper-division or graduate-level ~~[in graduate or upper division]~~ accounting and business courses, with one hour of credit counted for one hour of upper-division course work, and 1.6 hours of credit counted for one hour of graduate-level course work; or

(d) ~~[A]~~ a baccalaureate or graduate degree from a~~[n]~~ regionally accredited education program that includes~~[institution accredited by a regional accrediting body with]~~ no less than:

(i) 24 semester hours or 36 quarter hours in non-duplicative upper-division or graduate-level accounting courses, with a minimum of two semester hours or three quarter hours in each of the following subjects, and with one hour of credit counted for one hour of upper-division course work and 1.6 hours of credit for one hour of graduate-level course work:

- (A) financial accounting;
- (B) auditing;
- (C) taxation;
- (D) managerial or cost accounting; and

(E) accounting information systems or data analytics; and
 (ii) 24 semester hours or [36 quarter hours] in non-accounting business or related courses [providing]with a minimum of two semester hours or [three quarter hours] in each of the following subjects:

- (A) business law;
- (B) [computers]information systems;
- (C) economics;
- (D) business ethics;
- (E) finance;
- (F) [business-]statistics [and]or quantitative methods;
- (G) written and oral business communications; and
- (H) business administration such as marketing,

[production]operations, management, policy, or organizational behavior; and

[(ii) 24 semester hours (36 quarter hours) in upper division or graduate level accounting courses with a minimum of two semester hours (three quarter hours) in each of the following subjects:

- (A) auditing;
- (B) finance;
- (C) managerial or cost;
- (D) systems; and
- (E) taxes; and]

(iii) 30 additional semester hours or 45 quarter hours in [graduate or upper division]upper-division or graduate-level accounting and business courses, with one hour of credit counted for one hour of upper-division course work, and 1.6 hours of credit for one hour of graduate-level course work.

(2) The Division in collaboration with the Board or the Education Advisory Committee may accept a baccalaureate degree in business or accounting from an [institution not having an accepted accreditation as defined in Subsection R156-26a-102(4);]education program that is not nationally accredited or regionally accredited if the applicant:]

(a) has obtained a graduate degree in accounting from an institution whose business education program is accredited by the AACSB or the ACBSP;]

[(b)](i) has obtained a graduate degree in accounting or taxation or a Master of Business Administration from [an institution whose business education program is accredited by the AACSB or the ACBSP]a nationally accredited education program; and

(ii) meets the requirements in Subsection R156-26a-302a(1)(b)(i)[;] or (ii)[;] or (iii);] or

[(e)](b)(i) has obtained a graduate degree in accounting, taxation, or a Master of Business Administration from [an institution accredited by a regional accrediting body; and]a regionally accredited education program; and

(ii) meets the requirements in Subsection R156-26a-302a(1)(d).

(3) The Division in collaboration with the Board or the Education Advisory Committee may make a written finding for cause that a particular accredited institution or program is not acceptable.

(4) The Division in collaboration with the Board or the Education Advisory Committee may accept education of a person who [holds a license]is or has been licensed as a certified public accountant or equivalent designation in a [foreign country]jurisdiction outside of the United States, if the applicant has obtained from NASBA verification of compliance with the terms of a [a] current Mutual Recognition Agreement[agreement for reciprocal licensure] between that jurisdiction[the foreign country] and the International Qualifications Appraisal Board of NASBA[; which agreement provides the applicant's examinations, education

and experience is determined to be substantially equivalent to the Eighth Edition, January 2018 Uniform Accountancy Act licensure requirements or a version of the Uniform Accountancy Act having substantially equivalent requirements].

R156-26a-302b. Qualifications for Licensure - Experience Requirements.

[In accordance with]Under Subsections 58-1-203(1)(b) and 58-1-301(3) and Section 58-26a-302, [the experience requirements for licensure in Section 58-26a-302 are clarified, or supplemented as follows:

(1) The [the] Division in collaboration with the [board]Board may accept experience of [a person who holds a license]an applicant who is or was licensed as a certified public accountant or equivalent designation in a [foreign country]jurisdiction outside of the United States, if the applicant has obtained from NASBA verification of compliance with the terms of a [an agreement for reciprocal licensure] current Mutual Recognition Agreement between [the foreign country]that jurisdiction and the International Qualifications Appraisal Board of NASBA[; which agreement provides the applicant's examinations, education and experience is determined to be substantially equivalent to the Eighth Edition, January 2018 Uniform Accountancy Act licensure requirements or a version of the Uniform Accountancy Act having substantially equivalent requirements].

R156-26a-302c. Qualifications for Licensure - Examinations.

[The examination requirements in Subsection 58-26a-306 are defines, clarified, or established as follows:

(1) [In accordance with]Under Subsection 58-26a-306(1)(a), the form of application approved by the Division [shall be]is the application that NASBA CPA Examination Services (["CPAES"]) requires to sit for the AICPA Uniform CPA Examination.

(2) [In accordance with]Under Subsection 58-26a-306(1)(b), the fee [shall be]is the fee charged by CPAES. No additional fee [shall be]is due to the Division.

(3) Under Subsection 58-26a-306(1)(c), the minimum 120 semester hours or 180 quarter hours of the education requirement that an applicant shall complete before sitting for the AICPA Uniform CPA Examination shall include 24 semester hours or 36 quarter hours in non-duplicative upper-division or graduate-level accounting courses covering at least one course in each of the following subjects, with one hour of credit counted for one hour of upper-division course work and 1.6 hours of credit counted for one hour of graduate-level course work:

- (a) financial accounting;
- (b) auditing;
- (c) taxation;
- (d) managerial or cost accounting; and
- (e) accounting information systems or data analytics.

[(3)](4) [In accordance with]Under Subsections 58-26a-306(1)(c) and (d), the Board designates CPAES as the organization that shall determine [whether]if an applicant has met the education requirements and is approved to sit for the AICPA Uniform CPA Examination[examinations]. [However, if]If an applicant disputes CPAES's determination, the Board shall make the final determination.]

(4) In accordance with Subsection 58-26a-306(1)(e), the minimum 120 semester hours (180 quarter hours) of the education requirement that an applicant shall complete before sitting for the AICPA Uniform CPA Examination, shall include completion of at

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least the following requirements as described in Section R156-26a-302a:

- ~~_____ (a) 24 semester hours (36 quarter hours) in upper division or graduate level accounting courses covering the following subjects:~~
 - ~~_____ (i) financial accounting;~~
 - ~~_____ (ii) auditing;~~
 - ~~_____ (iii) taxation; and~~
 - ~~_____ (iv) management accounting; and~~
 - ~~_____ (b) 24 semester hours (36 quarter hours) in non-accounting business or related courses covering the following subjects:~~
 - ~~_____ (i) business law;~~
 - ~~_____ (ii) computers;~~
 - ~~_____ (iii) economics;~~
 - ~~_____ (iv) business ethics;~~
 - ~~_____ (v) finance;~~
 - ~~_____ (vi) business statistics and quantitative methods;~~
 - ~~_____ (vii) written and oral business-related communications;~~
- and
- ~~_____ (viii) business administration such as marketing, productions, management, policy or organizational behavior.]~~

(5) An applicant for licensure as a certified public accountant shall also pass:

- (a) the AICPA Examination of Professional Ethics for CPAs with a score of at least 90%; and
- (b) the Utah (CPA) Laws and Rules Examination with a score of at least 75%.

(6) The Division in collaboration with the Board may accept testing of a person who holds a license as a certified public accountant or equivalent designation in a foreign country, if the applicant has obtained from NASBA verification of compliance with the terms of a ~~[n agreement for reciprocal licensure]~~ current Mutual Recognition Agreement between the foreign country and the International Qualifications Appraisal Board of NASBA, ~~[which agreement provides the applicant's examinations, education and experience is determined to be substantially equivalent to the Eighth Edition, January 2018 Uniform Accountancy Act licensure requirements or a version of the Uniform Accountancy Act having substantially equivalent requirements].~~

R156-26a-303a. Renewal Requirements - Peer Review.

(1) ~~[General]~~
~~_____ In accordance with~~(a) Under Subsections 58-1-308(3)(b) and 58-26a-303(2)(b), there is created a peer review requirement as a condition for renewal of licenses issued under ~~[the]~~ Title 58, Chapter 26a, Certified Public Accountant Licensing Act, providing for review of the work products of CPA and CPA firm licensees.

~~[(a)]~~(b) The purpose of the ~~[program]~~ peer review is to monitor compliance with professional standards.

~~[(b)]~~(c) The ~~[program]~~ peer review shall emphasize education and may include other remedial actions when non-compliance is found.

~~[(e)]~~(d) If a licensee is unwilling or unable to comply with or intentionally disregards professional standards, the administering organization shall refer the matter to the Division for consultation and determination of appropriate action.

(2) ~~[Scheduling of the Peer Review]~~
~~_____~~(a) A firm's initial peer review shall be assigned a due date to require that the initial review be started no later than 18 months after the date of the issuance of its initial report as defined in Subsection 58-26a-102(20).

(b) At least once every three years a firm engaged in the practice of public accounting shall undergo, at its own expense, a peer review commensurate in scope with its practice.

(c) The administering organization shall assign the year of review.

(d) A portion of the peer review may be performed by a regulatory body if the Board approves the regulatory body as an administering organization. This does not by itself satisfy the peer review requirement unless the other standards ~~[as specified]~~ in this rule are fulfilled by the regulatory body.

(3) ~~[Selection of a Peer Reviewer or inspector in the case of inspections mandated by law or regulatory bodies]~~

~~_____~~ A firm scheduled for peer review shall engage a reviewer qualified to conduct the peer review. Regulatory bodies shall assign inspectors.

(4) ~~[Qualifications of a Peer Reviewer and inspectors]~~

~~_____~~ (a) A peer reviewer shall ~~[Peer reviewers must]~~ provide evidence of one of the two following minimum qualifications to the administering organization:

- (i) acceptance as a peer reviewer by the AICPA; or
- (ii) compliance with the qualifications required by the AICPA to qualify as a peer reviewer.

(b) A peer reviewer ~~[Peer reviewers]~~ shall be licensed or hold a permit to practice as a CPA in Utah or another state or jurisdiction of the United States.

(c) The administering organization shall approve reviewers for reviews not administered by the AICPA.

(d) Regulatory bodies shall determine the qualifications of inspectors.

(5) ~~[Conduct of the Peer Review or inspection. Peer reviews shall be conducted as follows]~~

~~_____~~ (a) Each peer review ~~[Peer reviews]~~ shall be conducted according to the ~~[the]~~ Standards for Performing and Reporting on Peer Reviews ~~[the]~~ promulgated by the AICPA, effective ~~[April 2019]~~ June 1, 2023, which are ~~[hereby]~~ incorporated by reference and adopted as the minimum standards for peer reviews of ~~[all]~~ firms. This ~~[section shall]~~ requirement does not require any firm or licensee to become a member of the AICPA or any administering organization.

(b) The Board may review the standards used by the regulatory body to determine if those standards are sufficient to satisfy all or part of the peer review requirements, or what additional review may be required to meet the peer review requirements under this rule.

(6) If an administering organization finds that a peer review was not performed in accordance with this rule or the peer review results in a pass with deficiencies or fail report, the Peer Review Committee may require remedial action to assure that the review or performance of the CPA or CPA firm being reviewed meets the objectives of the peer review program.

(7) ~~[Review of Multi-State Firms]~~

~~_____~~ (a) ~~[With respect to]~~ For a multi-state firm, the Division may accept a peer review based solely upon work conducted outside of this state as satisfying the requirement to undergo peer review under this rule, if:

- (i) the peer review is conducted during the year scheduled or rescheduled under Subsection R156-26a-303a(2);
- (ii) the peer review is performed in accordance with requirements equivalent to those of this state;
- (iii) the peer review:

(A) studies, evaluates, and reports on the quality control system of the firm as a whole in the case of system reviews; or

(B) results in an evaluation and report on selected engagements in the case of engagement reviews;

(iv) the firm's internal inspection procedures require that the firm's personnel from another office outside the state perform the inspection of the office located in this state not less than once in each three year period; and

(v) at the conclusion of the peer review, the peer reviewer issues a report equivalent to that required by Subsection R156-26a-303a(5) or in the case of an approved regulatory body, a report is issued under their standards.

(b) A multi-state firm seeking approval under Subsection R156-26a-303a(7)(a) shall submit an application to the administering organization by February 1 of the year of review establishing that the peer review it proposes to undergo meets ~~[all of]~~ the requirements of Subsection R156-26a-303a(5).

(8) A firm ~~[which]that~~ does not perform services encompassed in the scope of minimum standards as set out in Subsection R156-26a-303a(5)(a) or (b) is exempt from peer review and shall notify the Division of the exemption at the time of renewal of its registration. A firm ~~[which]that~~ begins providing these services ~~[must]shall begin [commence]-~~a peer review within 18 months of the date of the issuance of its initial report as defined in Subsection 58-26a-102(16).

(9) ~~[Mergers, Combinations, Dissolutions or Separations.~~

~~_____](a) [Mergers or combinations: -]~~ If two or more firms are merged or sold and combined, the surviving firm shall retain the year of review of the largest firm.

(b) Dissolutions or separations: If a firm is divided, the new firms shall retain the year of review of the former firm. If this period is less than 12 months, a new year shall be assigned so that the review occurs after 12 months of operation.

(c) Upon application to the administering organization and a showing of hardship caused solely by compliance with Subsection R156-26a-303a(10), the Division may authorize a change in a firm's year of review.

(10) If a firm can demonstrate that the time established for the conduct of a peer review will create an unreasonable hardship upon the firm, the Division may approve an extension not to exceed 180 days from the date the peer review was originally scheduled, as follows:

(a) A request for extension shall be addressed in writing by the firm to the Division with a copy to the administering organization responsible for administration of that firm's peer review.

(b) The written request for extension shall be received by both the Division and the administering organization at least 30 days ~~[prior to]before~~ the date of scheduled review or the request will not be considered.

(c) The Division shall inform the administering organization of the approval of any extension.

(11) ~~[Retention of Documents Relating to Peer Reviews.~~

~~_____](a) [All documentation]Documentation~~ necessary to establish that each peer review was performed in conformity with peer review standards adopted by the Board, including the peer review working papers, the peer review report, comment letters and related correspondence indicating the firm's concurrence or nonconcurrence, and any proposed remedial actions and related implementation, shall be ~~-retained~~ for the relevant administering organization's designated retention period or 120 days, whichever is longer.

(12) ~~[Costs and Fees for Peer Review.~~

~~_____](a) [All costs]Costs~~ associated with firm-on-firm reviews will be negotiated between the firm and the reviewer and paid directly to the reviewer. ~~[All costs]Costs~~ associated with committee assigned review team (CART) reviews will be set by the administering organization. The administering organization will collect the fees associated with CART reviews and pay the reviewer.

(b) ~~[All costs]Costs~~ associated with the administration of the review process shall be paid from fees charged to the firms. The fees shall be collected by the administering organization. The schedule of fees shall be included in the administering organization's proposal. The fee schedule shall specify how much is to be paid each year and shall be based on the firm size.

(13) ~~[All financial]Financial~~ statements, working papers, or other documents reviewed are confidential. Access to those documents shall be limited to being made available, upon request, to the Peer Review Committee or the technical reviewer ~~[for purposes of assuring]to assure~~ that peer reviews are performed according to professional standards.

R156-26a-303b. Continuing Professional Education (CPE).

The continuing professional education (CPE) requirements in Section 58-26a-304 are defined, clarified, or established as follows:

(1) A CPA shall complete at least 80 CPE hours in each two-year licensure cycle ending on December 31 of each even-numbered year, except that no CPE hours are required at a first renewal after initial licensure.

(2) CPE hours shall include at least:

(a) one hour of CPE that covers Title 58, Chapter 26a, the Certified Public Accountant Licensing Act, and Rule R156-26a, the Certified Public Accountant Licensing Act Rule; and

(b) three hours of ethics education that cover one or more of the following areas:

(i) the AICPA Code of Professional Conduct;

(ii) case-based instruction focusing on real-life situational learning;

(iii) ethical dilemmas faced by accounting professionals;

or

(iv) business ethics.

(3) A CPA shall maintain current knowledge, skills, and abilities in ~~[all areas]each area~~ in which the CPA provides services ~~[in order]~~ to provide services in a competent manner. To maintain or to obtain the knowledge, skills, and abilities to competently provide services, a CPA may be required to obtain CPE above and beyond the 80 minimum CPE credits specified in Section 58-26a-304.

(4) The Division incorporates ~~[and adopts]~~ by reference the AICPA ~~[and]~~ NASBA Statement on Standards for Continuing Professional Education (CPE) Programs, revised ~~[August 2016]January 2024~~. These standards have been broadly stated in recognition of the diversity of practice and experience among CPAs. They establish a framework for the development, presentation, measurement, and reporting of CPE programs and thereby help to ensure that CPAs maintain the required knowledge, skills, and abilities necessary to competently provide services and to enable the CPA to provide evidence of meeting the minimum CPE requirements.

(5) Reporting Requirements.

(a) The license renewal ~~[deadline]deadline~~ and the CPE reporting period deadline shall have the same date of December 31 of even-numbered years.

(b) Except as otherwise authorized by the Division, CPE shall be ~~[reported online on the Division website]entered in CPE Audit Service~~ for online reporting and auditing of CPE compliance.

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(c) A licensee applying for license renewal shall report by December 31 of each even-numbered year, demonstrating completion of at least the minimum number of CPE hours required under Section 58-26a-304 and this ~~Section~~ section.

(d) Each person applying for license reinstatement shall report to the Division at the time of application, demonstrating completion of the CPE required under Section R156-26a-307.

(e) If a licensee reports required CPE and renews their license ~~prior to~~ before December 31 of an even-numbered year, any additional CPE completed by that licensee through the remainder of the even-numbered year may be reported and carried forward toward the next succeeding CPE reporting period.

(6) Carry Forward Provision.

(a) A licensee who completes more than the required hours of CPE during the reporting period may carry forward up to 40 hours to the next succeeding reporting period.

(b) CPE taken in the current reporting period and CPE hours carried forward from the previous reporting period shall qualify as general CPE hours only for the current reporting period.

(7) Failure to comply with CPE requirements.

(a) A licensee who fails to complete the required minimum CPE by the reporting deadline may not renew their license until the required CPE hours have been completed and reported.

(b) Pursuant to Subsection 58-26a-304(4), a licensee may request the Board to waive the requirements or grant an extension for CPE on the basis that the licensee was not able to complete the continuing professional education due to medical or related conditions confirmed by a qualified health care provider.

(i) Such medical confirmation shall include the beginning and ending dates during which the medical condition would have prevented the licensee from completing the CPE, the extent of the medical condition and the effect that the medical condition had upon the ability of the licensee to continue to engage in the practice of accountancy.

(ii) The Board in determining whether the waiver is appropriate shall consider whether or not the licensee continued to be engaged in the practice of accountancy practice on a full or part time basis during the period specified by the medical confirmation.

(iii) Granting a waiver of meeting the minimum CPE hours is not a waiver of a CPA being required to provide services in a competent manner with current knowledge, skill, and ability. When medical or other conditions prevent the CPA from providing services in a competent manner, the CPA shall refrain from providing such services.

R156-26a-303c. Renewal Cycle.

~~In accordance with~~ Under Subsection 58-1-308(1), the renewal date for the two-year renewal cycle ~~[applicable to]~~ for licensees under Title 58, Chapter 26a, Certified Public Accountant Licensing Act is established ~~[by rule]~~ in Section R156-1-308a.

R156-26a-303d. Renewal Procedures.

Renewal procedures shall be in accordance with Section R156-1-308c.

R156-26a-305. Exemptions from Licensure - Mobility.

The mobility practice privilege included in Section 58-26a-305 is further clarified, ~~defined~~ defined, and established as follows:

(1) As used in this section and for purposes of Section 58-26a-305:

(a) "Mobility" means a practice privilege that generally permits a licensed CPA in good standing ~~from~~ from a substantially equivalent state~~[/]~~ or jurisdiction where their principal place of business is located, to practice outside of that state~~[/]~~ or jurisdiction without obtaining another license. CPA mobility is a uniform approach endorsed by the AICPA and NASBA through the AICPA~~[/]~~ and NASBA Uniform Accountancy Act (UAA), allowing non-notification interstate practice by CPAs whose home jurisdiction or who individually are substantially equivalent where they meet the UAA licensure standard. The individual and firm automatically consent to the jurisdiction of the mobility state, and the mobility state's ability to discipline under the provision is based on the performance of services within the mobility state, whether physically, electronically, or otherwise.

(b) "Individual mobility" means an individual CPA meets the requirements of Subsection 58-26a-305(1)(a) and Section R156-26a-305 to perform services through mobility in Utah. A CPA with individual mobility does not need to obtain a Utah CPA license or otherwise register with the Division.

(c) "Firm mobility" means a CPA firm meets the requirements of Subsection 58-26a-305(1)(a) and Section R156-26a-305 to perform services through mobility in Utah. A CPA firm with firm mobility does not need to obtain a Utah CPA firm license or register with the Division.

(d) "Home jurisdiction"~~[, for purposes of Section 58-26a-305 and this Section,]~~ means the jurisdiction where a CPA or CPA firm is licensed and their principal place of business is located.

(e) "Mobility tool" means the online tool developed by the AICPA and NASBA to help CPAs and CPA firms understand mobility and determine their eligibility for mobility, available at <https://cpamobility.org>.

(2) A CPA or CPA firm performing services through mobility in Utah shall hold an active, unrestricted license in good standing in their home jurisdiction. An inactive or restricted CPA or CPA firm license is invalid pursuant to Subsection 58-26a-305(1)(a)(ii)(C).

(3) A CPA performing services through mobility shall only perform the same level of services, ~~[attest or non-attest]~~, in the mobility jurisdiction as they are permitted to perform in their home jurisdiction.

(4) A CPA firm not licensed in Utah may perform services through mobility in Utah as a person exempt from licensure pursuant to Subsection 58-26a-305(1)(a), if:

(a) the CPA firm's principal place of business is not in Utah;

(b) the CPA firm holds an active, unrestricted CPA firm license in good standing in its home jurisdiction; and

(c) the CPA firm meets the ownership and peer review requirements of the mobility jurisdiction pursuant to Subsection 58-26a-302(3)(a)(iii) and ~~S[ub]~~section R156-26a-303a.

(5) A licensed CPA or CPA firm may obtain information regarding their eligibility for mobility by using the mobility tool at <https://cpamobility.org>.

R156-26a-307. Reinstatement of Licenses.

(1) An individual who held a Utah license ~~[which]~~ that has expired for failure to renew for nonpayment of fees, or an individual applying for reinstatement from emeritus status, may be relicensed upon satisfactory completion of:

(a) submission of an application on forms supplied by the Division ~~[which]that~~ shall contain information as to why the individual allowed their license to lapse; and

(b) 80 hours of qualified CPE completed within the 12 months preceding the submission of the application for reinstatement, which shall include:

(i) at least 16 hours in accounting or auditing or both; and

(ii) successful completion of the AICPA Professional Ethics for CPAs Examination and the Utah CPA Laws and Rules Examination with minimum scores of at least the minimum score required for initial licensure, which shall count as eight hours of CPE toward[s] the 80 hour requirement.

(2) The requirements in Subsection R156-26-307(1)(b) may be waived if the reinstatement applicant:

(a) has not been practicing within Utah since the expiration of the license being reinstated;

(b) has continuously since the expiration been licensed and practicing in another state; and

(c) demonstrates that the applicant has met ~~[aH]~~the CPE requirements that would have been applicable in Utah during the time the license was expired in Utah.

(3) The requirements in Subsection R156-26a-307(1)(b) may be waived if:

(a) the applicant failed to renew because of inadvertent failure to pay the renewal fees, to sign application documents, or to meet similar technical application requirements;

(b) the application for reinstatement is filed with the Division within 24 months after expiration date of the license; and

(c) at the time of application for reinstatement the applicant demonstrates by proof of attendance at acceptable CPE courses that at all times the applicant was in full compliance with the CPE requirements.

(4) The number of hours required to reinstate a license may not satisfy in whole or part any of the minimum hours of CPE that may be required for subsequent renewal of the license.

R156-26a-501. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) willfully failing to comply with continuing professional education requirements or fraudulently reporting continuing professional education;

(2) ~~[commission of an act or omission that fails]~~failing to conform to the accepted and recognized standards and ethics of the profession including those ~~[stated—]~~in the AICPA Code of Professional Conduct, effective December 15, 2014, updated through ~~[August 31, 2016]~~October 2023, which is ~~[hereby—]~~incorporated by reference; or

(3) a CPA firm using the name of a person who is not a licensed certified public accountant as part of the CPA firm name, ~~[with the exception]~~except that a CPA firm may continue to use the name of a former owner who was a CPA but who has retired or is no longer active in the CPA firm.

KEY: accountants, licensing, peer review, continuing professional education

Date of Last Change: ~~[November 7, 2019]~~2024

Notice of Continuation: September 27, 2021

Authorizing, and Implemented or Interpreted Law: 58-26a-101; 58-1-106(1)(a); 58-1-202(1)(a)

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Repeal		
Rule or Section Number:	R448-10	Filing ID: 56541

Agency Information

1. Title catchline:	Health and Human Services, Disease Control and Prevention, Medical Examiner	
Building:	UPHL MOD 2	
Street address:	4451 S 2700 W	
City, state:	Taylorsville, UT	
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:
R448-10. Unattended Death and Reporting Requirements
3. Purpose of the new rule or reason for the change:
The purpose of this filing is to repeal Rule R448-10 based on legislative and statutory changes that caused this rule to be outdated and irrelevant.
The definition of "attended death," previously defined in Section R448-10-3, was amended by the Legislature from care provided in the 30 days prior to death to care provided in the 365 days prior to death, now defined in Section 26B-8-214.
"Health care professional" is defined in Section 26B-8-201.
Section R448-10-2 previously defined who, when a death is attended, shall certify the death certificate, but requirements established by the Legislature in the cited portions of code establish who, in an attended death, shall certify the death certificate, superseding what was previously in Section R448-10-2.
Additionally, Section 26B-8-214 amends the previous reporting requirements established in Subsection R448-10-3(1), and the remainder of the reporting requirements are established in Section 26B-8-206.

The entirety of the provisions in Rule R448-10 were enumerated in the Utah Medical Examiner statute (26B-8-201), and therefore, this rule is no longer necessary.

4. Summary of the new rule or change:

This filing repeals Rule R448-10 in its entirety.

All of the provisions included in Rule R448-10 are now codified in the Utah Medical Examiner statute. See Box 6 of this filing to review the sections of Utah Code that supersede Rule R448-10.

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 associated with repealing Rule R448-10.

Section 26B-8-214 superseded Rule R448-10, extending the definition of "attended death" from care that was provided in the 30 days prior to death to 365 days, which reduced the number of attended deaths for which the medical examiner has jurisdiction.

Any cost savings, due to reduced case load, have already been realized in the previous two fiscal years.

Repealing this rule results in no additional cost or savings to the state budget.

B) Local governments:

This rule repeal will have no fiscal impact on local governments, as this rule does not apply to local governments.

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

This rule repeal will have no fiscal impact on small businesses, as this rule does not apply to small businesses.

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

This rule repeal will have no fiscal impact on non-small businesses, as this rule does not apply to 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 repeal will have no fiscal impact on other persons, as this rule does not apply to 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 is no compliance cost associated with the repeal of this rule.

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

Regulatory Impact Table

Fiscal Cost	FY2025	FY2026	FY2027
State Government	\$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	FY2025	FY2026	FY2027
State Government	\$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 Health Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information

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

Section 26B-8-201	Section 26B-8-214	Section 26B-8-206
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Section 26B-8-205	Section 26B-8-215	
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Public Notice Information

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

A) Comments will be accepted until:	07/15/2024
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9. This rule change MAY become effective on:	07/22/2024
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	05/29/2024
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R448. Health, Disease Control and Prevention, Medical Examiner.

~~[R448-10. Unattended Death and Reporting Requirements.~~

~~**R448-10-1. Authority and Purpose.**~~

~~_____ This rule is authorized by Utah Code Section 26-1-5. It clarifies the meaning of unattended death under the provisions of Utah Code Subsection 26-4-2(8) and the requirements of Utah Code Section 26-4-8.~~

~~**R448-10-2. Death Under Physician's Care and Supervision.**~~

~~_____ For purposes of Utah Code Subsection 26-4-2(8), an individual whose care is directly supervised by a physician and who has been seen by a licensed nurse whose activity is directly supervised by the physician is deemed to have been seen by the physician within the scope of the physician's professional capacity.~~

~~**R448-10-3. Reporting Requirement.**~~

~~_____ (1) If a death occurs and the individual's care within 30 days prior to death was not directly supervised by a physician or if the individual was not seen by a licensed nurse whose activity is directly supervised by the individual's treating physician, then the death must be reported as required under Utah Code Section 26-4-8.~~

~~_____ (2) All other deaths that meet the criteria in Utah Code Section 26-4-7, must be reported as required by Utah Code Section 26-4-8.~~

~~_____ (3) As required by R432-750-29, a hospice is required to report all deaths supervised by the hospice if the death was a result from injury, accident, or other possible unnatural cause.~~

~~**KEY: medical examiner, unattended death, reporting death**~~

~~**Date of Last Change: June 19, 2000**~~

~~**Notice of Continuation: April 5, 2019**~~

~~**Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-4-2; 26-4-7; 26-4-8**~~

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R590-164-5	Filing ID: 56542

Agency Information

1. Title catchline:	Insurance, Administration
Building:	Taylorville State Office Building
Street address:	4315 S 2700 W
City, state	Taylorville, UT
Mailing address:	PO Box 146901
City, state and zip:	Salt Lake City, UT 84114-6901

Contact persons:		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov

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

General Information

2. Rule or section catchline:
R590-164-5. Electronic Data Interchange Transactions

3. Purpose of the new rule or reason for the change:
Two specific electronic data interchange transaction forms are being removed because the authorizing language in Section 31A-22-613.5 was repealed in H.B. 336 of the 2017 General Session.

4. Summary of the new rule or change:
The rule is being amended to remove Transparency Administration Performance Standard v2.0 and Transparency Denial Standard v2.0 from use by insurers.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
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A) State budget:
There is no anticipated cost or savings to the state budget.

The Department of Insurance (Department) will continue collecting and reporting other data that is already available publicly.

B) Local governments:
There is no anticipated cost or savings to local governments.

This rule governs the relationship between the Department and its licensees and does not affect local governments in any way.

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

There is no anticipated cost or savings to small businesses.

This rule applies only to health insurers in the state, all of which employ 50 or more persons.

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

Non-small businesses are likely to see small savings as a result of this rule, because they will no longer be required to collect and report certain information to the Department.

However, because some insurers may have automated their reporting processes while others may have completely manual processes, the Department is not able to estimate the aggregate amount of those savings.

Such savings will be specific to each insurer, and the Department has no way of knowing what that savings will be.

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

There is no anticipated cost or savings to any other persons.

This rule governs the relationship between the Department and its licensees and does not affect 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 any affected persons.

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

Regulatory Impact Table			
Fiscal Cost	FY2025	FY2026	FY2027
State Government	\$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	FY2025	FY2026	FY2027
State Government	\$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 Insurance Department, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.

Citation Information

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

Section 31A-2-201	Section 31A-22-614.5	
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Public Notice Information

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

A) Comments will be accepted until:	07/15/2024
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9. This rule change MAY become effective on:

07/22/2024
 NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	05/30/2024
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R590. Insurance, Administration.**R590-164. Uniform Health Billing Rule.****R590-164-5. Electronic Data Interchange Transactions.**

(1)(a) The commissioner shall use the UHIN Standards Committee to develop electronic data interchange standards for use by payers and providers transacting health insurance business electronically.

(b) In developing standards for the commissioner, the UHIN Standards Committee shall consult with national standard-setting entities including CMS, NUCC, ASC X12N, NCPDM, and NUBC.

(2) The commissioner shall incorporate a standard adopted by the UHIN Standards Committee into rule before it is required for use by payers and providers.

(3) A payer shall accept the applicable electronic data if transmitted in accordance with the electronic data interchange standard that is incorporated in rule.

(4) A payer may reject electronic data if not transmitted in accordance with the electronic data interchange standard that is incorporated in rule.

(5) The HIPAA electronic data interchange standards described in this Subsection (5) and adopted by the UHIN Standards Committee are incorporated by reference by the commissioner and are available at <https://insurance.utah.gov>.

(a) "999 Implementation Acknowledgement For Health Care Insurance Standard v3.4." The purpose of the standard is to detail the standard transaction for the reporting of transmission receipt and transaction or functional group X12 and implementation guide error, and adopt the use of the ASC X12 999 transaction.

(b) "Adaptive Behavior Services/Applied Behavior Analysis (ABA) Billing Standard" v3.1." The purpose of the standard is to detail the billing for the transmission of ABA services.

(c) "Administrative Transaction Acknowledgements Standard v3.1." The purpose of the standard is to create a process for acknowledging all electronic transactions between trading partners based on the communication, syntax, semantic, and business process specifications.

(d) "Anesthesia Standard v3.1." The purpose of the standard is to standardize the transmission of anesthesia data for health care services. The standard does not alter any contractual agreement between providers and payers.

(e) "Benefits Enrollment and Maintenance Standard v3.1." The purpose of the standard is to detail the standard transactions for the transmission of health care benefits enrollment and maintenance.

(f) "Claim Acknowledgement Standard v3.2." The purpose of the standard is to provide a standardized claim acknowledgement in response to a claim submission, which is used to report on the status of a claim or encounter at the pre-adjudication processing stage, for example, before the payer is legally required to keep a history of the claim or encounter.

(g) "Claim Status Inquiry and Response Standard v3.2." The purpose of the standard is to detail the standard transactions for the transmission of health care claim status inquiries and response, allow the provider to reduce the need for claim follow-up, and facilitate the correction of claims.

(h) "CMS 1500 Paper Claim Form Standard v3.3." The purpose of the standard is to describe the standard use of each box for print images, and its crosswalk to the HIPAA 837 005010X222A1 Professional implementation guide.

(i) "Coordination of Benefits Standard v3.2." The purpose of the standard is to streamline the coordination of benefits process between payers and providers or payer to payers, define the data to be exchanged for coordination of benefits, and to increase effective communications.

(j) "Dental Claim Billing Standard -- J430 v4." The purpose of the standard is to describe the standard use of each item number for print images, and its crosswalk to the HIPAA 837 005010x02241A1 dental implementation guide, and adopt the ADA dental Claim Form J340.

(k) "Electronic Remittance Advice Standard v3.5." The purpose of the standard is to detail the standard transaction for the transmission of a health care remittance advice.

(l) "Eligibility Inquiry and Response Standard v3.3." The purpose of the standard is to detail the standard transactions for the transmission of a health care eligibility inquiry and response.

(m) "Health Care Claim/Encounter Standard v3.2." The purpose of the standard is to detail the standard transaction for the transmission of a health care claim, encounter, and an associated transaction.

(n) "Health Identification Card Standard v1.3." The purpose of the standard is to standardize the patient health identification card information and address the human-readable appearance and machine-readable information used by the healthcare industry to obtain eligibility.

(o) "Health Plan Identifier (HPID) and Other Entity Identifier (OEID) Standard v1.1." The purpose of the standard is to inform providers of the HPID and OEID and their usage within the administrative transactions.

(p) "Home Health Standard v3.1." The purpose of the standard is to provide a uniform standard of billing for a home health care claim and encounter.

(q) "ICD-10 Standard v1.2." The purpose of the standard is to create the business requirement for a payer and a provider to implement the International Classification of Diseases 10th Revisions, ICD-10, within the administrative transaction.

(r) "Individual Name Standard v2.1." The purpose of the standard is to provide guidance for entering names into provider, payer, or sponsor systems for a patient, enrollee, and any other person associated with a record.

(s) "Metabolic Dietary Products Standard v2.1." The purpose of the standard is to provide a uniform standard for the billing of a metabolic dietary product.

(t) "NPI and Atypical Provider Standard v3.1." The purpose of the standard is to inform a provider of the national provider identifier requirements and the usage within a transaction.

(u) "Pain Management Standard v3.1." The purpose of the standard is to provide a uniform method of submitting a pain management claim, encounter, pre-authorization, and notification.

(v) "Patient Identification Number v3.0." The purpose of the standard is to describe the standard for the patient identification number.

(w) "Premium Payment v3.0." The purpose of the standard is to detail the standard transaction for the transmission of a premium payment.

NOTICES OF PROPOSED RULES

(x) "Prior Authorization/Referral Standard v3.0." The purpose of the standard is to provide general recommendations to payers and providers about handling an electronic prior authorization and referral.

(y) "Required Unknown Values Standard v3.0." The purpose of the standard is to provide guidance for the use of common data values that can be used within the HIPAA transaction when a required data element is not known by the provider, payer, or sponsor for a patient, enrollee, and any other person associated with the transaction. The data values should only be used when the data is not available or known and may not be used to replace known data.

(z) "Telehealth Standard v3.2." The purpose of the standard is to provide a uniform standard of billing for a health care claim and encounter delivered through telehealth.

~~(aa) ["Transparency Administration Performance Standard v2.0." The purpose of the standard is to establish performance measures that report the average telephone answer time and claim turnaround time.~~

~~(ab) ["Transparency Denial Standard v2.0." The purpose of the standard is to establish performance measures that report the number and cost of an insurer's denied health claims and to provide guidance pertaining to the reporting method and timeline.~~

(ac) ["UB04 Form Locator Elements v3.0." The purpose of the standard is to describe the use of each form locator in the UB-04 claim billing form and its crosswalk to the HIPAA 837 005010X223A2 institutional implementation guide.

KEY: insurance law

Date of Last Change: ~~March 15,~~ 2024

Notice of Continuation: March 6, 2020

Authorizing, and Implemented or Interpreted Law: 31A-22-614.5

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R590-271	Filing ID: 56543

Agency Information

1. Title catchline:	Insurance, Administration	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state	Taylorsville, UT	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R590-271. Data Reporting for Consumer Quality Comparison
3. Purpose of the new rule or reason for the change:
Many of the rule's provisions are being removed because the authorizing language in Section 31A-22-613.5 was repealed in H.B. 336 of the 2017 General Session.
4. Summary of the new rule or change:
This rule is being amended to remove the requirement that health insurers report certain information to the Insurance Department (Department), remove definitions related to the requirement, and remove a notice that the reported information is classified as a public record.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated cost or savings to the state budget.
The Department will continue collecting and reporting other data that is already available publicly.
B) Local governments:
There is no anticipated cost or savings to local governments.
This rule governs the relationship between the Department and its licensees and does not affect local governments in any way.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses.
This rule applies only to health insurers in the state, all of which employ 50 or more persons.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
Non-small businesses are likely to see small savings as a result of this rule, because they will no longer be required to collect and report certain information to the Department.
However, because some insurers may have automated their reporting processes while others may have completely manual processes, the Department is not able to estimate the aggregate amount of those savings.

Such savings will be specific to each insurer, and the Department has no way of knowing what that savings will be.

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

There is no anticipated cost or savings to any other persons.

This rule governs the relationship between the Department and its licensees and does not affect 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 any affected persons.

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

Regulatory Impact Table

Fiscal Cost	FY2025	FY2026	FY2027
State Government	\$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	FY2025	FY2026	FY2027
State Government	\$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 Benefits	Fiscal	\$0	\$0	\$0
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H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Commissioner of the Insurance Department, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.

Citation Information

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

Section 31A-2-201	Section 31A-2-216	
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Public Notice Information

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

A) Comments will be accepted until:	07/15/2024
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9. This rule change MAY become effective on:	07/22/2024
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	05/30/2024
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R590. Insurance, Administration.

R590-271. Data Reporting for Consumer Quality Comparison.

R590-271-1. Authority.

This rule is promulgated by the commissioner pursuant to Sections 31A-2-201 and 31A-2-216.

R590-271-2. Purpose and Scope.

- (1) The purpose of this rule is to:
 - ~~(a) define the methodology for determining and comparing insurer transparency information;~~
 - ~~(b) establish a format for submitting data to the commissioner; and~~
 - ~~(c) establish the date the data is due]~~ require an insurer to comply with the HEDIS reporting requirements under the Department of Health and Human Services.

(2)(a) This rule applies to an insurer offering a health benefit plan.

(b) This rule does not apply to an insurer whose health benefit plans cover fewer than 3,000 individual Utah residents in aggregate.

NOTICES OF PROPOSED RULES

R590-271-3. Definitions.

Terms used in this rule are defined in Section 31A-1-301. Additional terms are defined as follows:

~~[(1) "Electronic data interchange standard" means the standards developed by the UHIN Standards Committee at the request of the commissioner.]~~

~~[(2)](1) "HEDIS" means the Healthcare Effectiveness Data and Information Set.~~

~~[(3) "SFTP" means the Secure File Transfer Protocol.]~~

~~[(4) "UHIN" means the Utah Health Information Network.]~~

~~[(5) "UHIN Standards Committee" means the Standards Committee of the UHIN.]~~

R590-271-4. Reporting Requirements.

~~[(1)(a) The following electronic data interchange standards adopted by the UHIN Standards Committee are incorporated by reference by the commissioner and are available at <https://insurance.utah.gov>:~~

~~[(i) Transparency Administration Performance Standard, v2.0; and~~

~~[(ii) Transparency Denial Standard, v2.0.]~~

~~[(b) An insurer shall submit to the commissioner a report on each electronic data interchange standard referenced in Subsection R590-271-4(1)(a).]~~

~~[(c) Each report shall be submitted using the department's secure file upload site at <https://forms.uid.utah.gov/fileUploads>.]~~

~~[(d) Each report shall include data for the previous calendar year, and shall combine both paper and electronic claims.]~~

~~[(e) The submission format, procedures, and guidelines are described in detail in the adopted transparency standards published by UHIN.]~~

~~[(2)]An insurer shall comply with the reporting guidelines, procedures, and format of Rule R428-13 and submit HEDIS data for the preceding calendar year to the Utah Department of Health and Human Services Office of Health Care Statistics.~~

R590-271-5. [Public Records.]

~~The data submitted to the commissioner pursuant to this rule are public records as defined in Section 63G-2-103 for use on:~~

~~[(1) the department's website, <https://insurance.utah.gov>; and~~

~~[(2) the department's transparency website, <https://healthrates.utah.gov>.]~~

R590-271-6. [Severability.]

If any provision of this rule, Rule R590-271, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: data, data reporting, insurance

Date of Last Change: [March 11,] 2024

Authorizing, and Implemented or Interpreted Law: 31A-2-216

Agency Information

1. Title catchline:	National Guard, Administration	
Building:	Utah National Guard Headquarters Building	
Street address:	12953 S Minuteman Dr	
City, state	Draper, UT	
Contact persons:		
Name:	Phone:	Email:
Dan Schoenfeld	801-557-6260	dschoenfeld@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R630-1. Gifts to the Utah National Guard
3. Purpose of the new rule or reason for the change:
H.B. 245, passed during the 2024 General Session, requires the Department of the Utah National Guard (Department) to file rules regarding the acceptance of gifts to the Utah National Guard.
4. Summary of the new rule or change:
This rule authorizes the Department to accept gifts for its benefit and that of its members, employees, or dependents. Gift proceeds are considered non-lapsing funds and must comply with relevant regulations, with the Department tasked to establish acceptance rules.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The implementation of this program is designed to be cost-neutral to the state budget. This means there will be no additional costs associated with its implementation. The state government will not incur any charges, as they are not required to donate funds or allocate additional resources. All activities related to the program will be managed within existing resources and budget constraints. the Department does not anticipate the state needing to contribute any extra resources towards the program or its management.

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: New		
Rule or Section Number:	R630-1	Filing ID: 56530

B) Local governments:			
No city, county, or special service district will have any impact by cost or association of this rule, as this rule does not impact these entities.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
There will be no direct impact unless a small business gives a gift or donation to the Department and this rule does not require a small business to give a gift or donation, so no estimate can be provided			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
The proposed rule changes are not expected to have a fiscal impact on non-small businesses, nor will they necessitate any additional services or costs for implementation of the amendments.			
Therefore, there is no anticipated financial effect 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):			
The proposed rule changes are not anticipated to have any fiscal impact on entities falling outside the categories of small businesses, non-small businesses, state, or local government entities.			
Therefore, there is no expected financial implication for such persons or organizations and this rule does not require a small business to give a gift or donation, so no estimate can be provided.			
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):			
There is no anticipated compliance cost for affected persons as a result of this rule.			
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
Regulatory Impact Table			
Fiscal Cost	FY2025	FY2026	FY2027
State Government	\$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	FY2025	FY2026	FY2027
State Government	\$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 Adjutant General of the Utah National Guard, Major General Daniel D. Boyack, has reviewed and approved this analysis that there is no impact on the implementation of this rule.			

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 36A-9-101		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	07/15/2024

9. This rule change MAY become effective on:	07/22/2024
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:	Dan Schoenfeld, Deputy Director	Date:	04/02/2024
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R630. National Guard, Administration.

R630-1. Gifts to the Utah National Guard.

R630-1-1. Acceptance of Gifts.

(1) The Utah National Guard may receive gifts, contributions, and donations of any kinds, including tangible objects and real property made on the condition that it be used for the benefit of, or about, the Utah National Guard, its members, employees, veterans, or their dependents. The Adjutant General is the acceptance authority for such gifts.

(2) The Adjutant General may also accept gifts donated to benefit a state military museum or to create a memorial within the state honoring the activities of the Utah National Guard or Utah military veterans.

(3) Delegation of gift acceptance authority is limited to the Assistant Adjutant Generals, Land Component Commander, or the Utah National Guard Finance Director.

R630-1-2. Gift Funds.

(1) Gifts and bequests of money, and the proceeds of the sale of property, received under Section 39A-9-101 may be deposited in the following accounts as the Adjutant General or designee directs:

(a) the National Guard MWR Fund for the purposes identified in Section 39A-7-105;

(b) a fund supporting the purposes of West Travers Sentinel Landscape Act identified in Title 39A, Chapter 8, West Traverse Sentential Landscape Act;

(c) a fund supporting the purposes of the State Armory Board identified in Title 39A, Chapter 2, State Armory Board, West Traverse Landscape Act;

(d) the National Guard Death Benefit Account; or

(e) a fund supporting benefits and incentives identified in Title 39A, Chapter 3, Part 2, State Armory Board, West Traverse Sentinel Landscape Ac.

(2) A gift, grant, or donation described in Section 39A-9-101 will not revert to the General Fund.

R630-1-3. Use of Gifts, Prohibitions.

(1) Except as provided in Subsection R630-1-3(2), property and money accepted under Section 39A-9-101 may be used and services accepted without further specific authorization in law. The title to real property transfers to the Utah National Guard when the State Armory Board accepts the deed on behalf of the Utah National Guard.

(2) Property, money, and services may not be accepted under Section 39A-9-101:

(a) if the use of the property or money or the performance of the services about any program, project, or activity would result in the violation of any state or federal prohibition or limitation otherwise applicable to such program, project, or activity;

(b) if the conditions attached to the property, money, or services are inconsistent with applicable state or federal law and regulations;

(c) if the Adjutant General determines that the use of the property or money or the performance of the services would reflect unfavorably on the ability of the Utah National Guard, any state or federal employee of the Utah National Guard or any member of the

armed forces to carry out any responsibility or duty in a fair and objective manner;

(d) if the Adjutant General determines that the use of the property or money or the performance of the services would compromise the integrity or appearance of integrity of any program of the Utah National Guard, or any individual involved in such a program;

(e) if offered in a manner that discriminates among Utah National Guard personnel based on the type of official responsibility or favoring those of higher rank or rate of pay; and

(f) if the donor has interests that may be affected substantially by the performance or nonperformance of the recipient's official duties.

(3) Acceptance authorities may not accept gifts offered indirectly through an intermediary if they could not accept such a gift directly from the source.

(4) Acceptance authorities will ensure compliance with the restrictions and limitations contained in Section 63G-6a-2404.

R630-1-4. Prohibition of Solicitation.

(1) Utah National Guard personnel will not solicit, fundraise for, or otherwise request or encourage the offer of a gift to the Utah National Guard organization or personnel.

(2) Non-Utah National Guard entities will not receive Utah National Guard endorsement by virtue of their contributions to the military community or installation, their promotion or support of military goals and objectives, or for any other reason. A limited statement of gratitude by Utah National Guard personnel which does not imply endorsement is permitted, whether made in public or in private.

(3) A donor may mark the gift indicating that it was donated by a particular person, group, or organization. However, the marking must be in good taste and not worded to imply endorsement of the donor by the Utah National Guard or its military or civilian personnel.

KEY: donation, gift, in-kind

Date of Last Change: 2024

Authorizing, and Implemented or Interpreted Law: 39A-9-101

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R708-7	Filing ID: 56539

Agency Information

1. Title catchline:	Public Safety, Driver License
Building:	Taylorville State Office Building
Street address:	4315 S 2700 W
City, state:	Taylorville, UT
Mailing address:	PO Box 144501
City, state and zip:	Salt Lake City, UT 84114-4501

Contact persons:		
Name:	Phone:	Email:
Kim Gibb	801-556-8198	kgibb@utah.gov
Tara Zamora	801-964-4483	tarazamora@utah.gov
Britani Flores	801-884-8313	bflores@utah.gov

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

General Information

2. Rule or section catchline:
R708-7. Functional Ability in Driving: Responsibilities for Physicians and Drivers
3. Purpose of the new rule or reason for the change:
This rule filing is needed to prevent individuals from completing their own medical or vision forms.
This is not a new process; the Driver License Division (Division) is adding the verbiage to the rule for clarification.
The Incorporation by Reference (IBR) for this rule has also been updated.
4. Summary of the new rule or change:
This filing adds verbiage that clarifies that individuals are not allowed to complete their own medical and vision forms and is needed to protect the integrity of the Functional Ability In Driving: Guidelines and Standards for Health Care Professionals.
This information has also been added to the IBR for this rule.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The proposed rule is not expected to have any fiscal impacts on state budgets.
This rule filing is adding verbiage to the rule that prevents individuals from completing their own medical and vision forms. The completion of medical and vision forms has no fiscal impact on the state budget and is the fiscal responsibility of the individual submitting the forms.

B) Local governments:
The proposed rule is not expected to have any fiscal impact on any local governments.
This rule does not regulate any local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
The proposed rule is not expected to have any fiscal impact on any small businesses.
This rule does not regulate any small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The proposed rule is not expected to have any fiscal impact on any non-small businesses.
This rule does not regulate any non-small businesses.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):
The proposed rule may have a direct inestimable fiscal cost to members of the public.
This rule is clarifying that individuals are not allowed to complete a medical or vision form for themselves.
This will require the individual to have the forms completed by a licensed health care professional, which would require the individual to pay a fee to the health care professional for the examination needed to fill out the forms.
The Division is not able to estimate the costs because there is not a way to anticipate how many individuals would try to fill out their own medical or vision forms.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
The compliance costs for affected persons are inestimable.
The Division is not able to determine how much the cost to have an examination by a licensed health care professional due to varying factors such as personal health insurance coverages and differing co-pay amounts.
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	FY2025	FY2026	FY2027
State Government	\$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	FY2025	FY2026	FY2027
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Commissioner of the Department of Public Safety, Jess L. Anderson, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 53-3-104		

Incorporations by Reference Information

7. Incorporations by Reference:	
A) This rule adds or updates the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	Functional Ability In Driving: Guidelines and Standards for Health Care Professionals.
Publisher	Driver License Division

Issue Date	May 2024
Issue or Version	January 2024

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	07/15/2024

9. This rule change MAY become effective on:	07/22/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Christopher Caras, Division Director	Date:	05/29/2024
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R708. Public Safety, Driver License.

R708-7. Functional Ability in Driving: Responsibilities for Physicians and Drivers.

R708-7-1. Purpose.

The purpose of this rule is to establish the:

- (1) procedure for administering the standards and guidelines used by health care professionals to assess certain medical conditions in relation to driving safety;
- (2) responsibilities of health care professionals to educate patients on medical conditions that may affect driving safety;
- (3) responsibilities of individuals regarding their health in relation to driving safety; and
- (4) procedures regarding a petition requesting removal of an ignition interlock restriction.

R708-7-2. Authority.

This rule is authorized by Section 53-3-104.

R708-7-3. Definitions.

- (1) Terms used in this rule are defined in Sections 53-3-102 and 53-3-302.
- (2) In addition:
 - (a) "deep breath lung sample" also known as alveolar breath sample, means an air sample that is the last portion of a prolonged, uninterrupted exhalation and that gives a quantitative measurement of alcohol concentration from which breath alcohol concentrations can be determined;
 - (b) "FEV1" means the amount of air that can be forcibly exhaled from the lungs over one second of time after taking the deepest breath possible;
 - (c) "FVC" means the amount of air that can be forcibly exhaled from the lungs after taking the deepest breath possible;
 - (d) "guidelines" -means the Functional Ability In Driving: Guidelines and Standards for Health Care Professionals created by

the board to assist health care professionals in assessing certain medical conditions in relation to driving safety;

(e) "IID Removal Petition Physician Statement" means the form furnished by the division used by a physician to provide a synopsis of an individual's medical condition to determine eligibility for an exemption from an ignition interlock device requirement;

(f) "medical form" means a Functional Ability Evaluation Medical Report Form furnished by the division used by health care professionals to assess medical conditions;

(g) "spirometry" means a test of lung function that measures the quantity and speed of air that is inhaled or exhaled; and

(h) "vision form" means a Certificate of Visual Examination Form furnished by the division used by health care professionals to assess visual acuity.

R708-7-4. Driver's Responsibilities.

(1) Each individual that applies for or holds a Utah driver license shall:

(a) answer health questions related to driver safety each time an application for a Utah driving privilege is submitted to the division;

(b) refrain from driving if there is uncertainty caused from having a physical, mental, or emotional impairment that may affect driving safety;

(c) seek medical evaluation and advice about the significance of any impairment that relates to driving safety; and

(d) report a physical, mental, or emotional impairment that may affect driving safety to the division in a timely manner.

(2) Individuals who experience a physical, mental, or emotional impairment, shall take a medical or vision form to a health care professional who shall provide the requested information, including a safety assessment level that reflects the individual's condition.

(3) Individuals may not determine a safety assessment level for themselves.

R708-7-5. Health Care Professional's Responsibilities.

(1) Health care professionals shall:

(a) discuss the individual's health as it may affect driving abilities and make special recommendations in unusual circumstances;

(b) assess physical, mental, or emotional impairment conditions on forms furnished by the division; and

(c) report to the division regarding serious physical, mental, or emotional impairments that may affect driving safety concerning their patients.

(2) Health care professionals who make reports to the division regarding physical, mental, or emotional impairments that pose a threat to driving safety have immunity from any damages claimed from making the report.

R708-7-6. Driver License Medical Advisory Board.

The Driver License Medical Advisory Board shall:

(1) recommend written functional ability and safety assessment guidelines and standards for determining the physical, mental, and emotional capabilities of individuals appropriate to various driving abilities;

(2) advise the director of the division on individual cases regarding medical impairment and driving safety; and

(3) administer the guidelines.

R708-7-7. Persons Authorized to Complete ~~Functional Ability Evaluation Medical Report~~ Medical and Vision Forms.

(1) Licensed [P]physicians and surgeons [licensed to practice medicine] may complete the entire medical and vision ~~report~~ form.

(2) Licensed ophthalmologists and optometrists may only complete the vision form.

(3) Nurse practitioners, physician assistants, advanced practice nurses, chiropractors, and other health care professionals may perform physical examinations and report their findings on the medical and vision forms provided that:

(a) they are licensed by the state as health care professionals;

(b) the physical examination does not need advanced or complex diagnosis or treatment; and

(c) if advanced or complex medical diagnostic analysis is needed, they shall refer the patient to the appropriate ~~physician, surgeon, or doctor of osteopathy~~ health care professional for further evaluation and ~~for~~ completion of the ~~functional ability evaluations certifications report in those categories~~ medical or vision form.

(4) An individual authorized under Section R708-7-7 may not complete a medical or vision form if the medical or vision form is for themselves.

R708-7-8. Use of the Safety Assessment Level.

(1) Health care professionals shall apply the standards in the Functional Ability in Driving Guidelines and Standards for Health Care Professionals, ~~June 2023~~ January 2024 edition, which are incorporated by reference, when assessing patient health and completing the report forms.

(2) The board has identified the following specific medical categories:

(a) "category A" diabetes and metabolic conditions;

(b) "category B" cardiovascular;

(c) "category C" pulmonary;

(d) "category D" neurologic;

(e) "category E" seizures and episodic conditions;

(f) "category F" learning and memory;

(g) "category G" mental health;

(h) "category H" alcohol and other drugs;

(j) "category J" musculoskeletal or chronic debility; and

(k) "category K" alertness or sleep disorder.

(3) The division shall publish the guidelines on the division's website, dld.utah.gov.

(4) The division may request an individual to complete a driver review upon receipt of certain safety assessment levels, which may include a driving skills test to demonstrate the ability to safely operate a motor vehicle before the division can determine if:

(a) the individual will keep the privilege to drive without restrictions;

(b) driving restrictions may be needed to ensure public safety; or

(c) the individual must discontinue driving.

(5) A health care professional may also request the division evaluate an individual's driving skill level at the health care professional's discretion.

R708-7-9. Denial of Driving Privileges.

(1) The division shall notify an individual their privilege to drive is denied for any of the following:

NOTICES OF PROPOSED RULES

(a) a medical form that is completed in any category that the driver is assessed at a level eight in accordance with the guidelines, or other documentation that states the health care professional recommends the individual not drive;

(b) a vision form that the driver is assessed at a level ten in accordance with the guidelines, or other documentation that states the health care professional recommends the individual not drive; or

(c) the inability to complete or successfully pass a driver review.

(2) An individual may request a review of the division's decision upon receipt of a notice of denial of the privilege to drive.

R708-7-10. Petition to Remove Ignition Interlock Restriction.

(1) An individual with a medical condition that prohibits the individual from providing a deep lung breath sample necessary to operate an ignition interlock system may submit a petition to the division containing the following:

(a) an IID Removal Petition Physician Statement Form provided by the division completed by the physician;

(b) a medical form completed by a physician;

(c) medical history documenting the date of onset of the condition, the prognosis, and current treatments; and

(d) measurements of FVC and FEV1 as measured by reproducible spirometry within 90 days of the petition.

(2) The board shall review documentation submitted to support the individual cannot provide a deep lung breath sample under Title 53, Chapter 3, Part 3, Impaired Persons Licensing Act.

(3) The board may request additional documentation regarding a medical exemption requested under this rule.

(4) The division may consider:

(a) the recommendation of the panel;

(b) public safety;

(c) the availability of ignition interlock systems that may be used with the individual's condition; and

(d) the level of pulmonary or other impairment affecting the individual in determining the individual's license restrictions.

KEY: administrative procedures, health care professionals, physicians

Date of Last Change: 2024[November 21, 2023]

Notice of Continuation: December 16, 2021

Authorizing, and Implemented or Interpreted Law: 53-3-104; 53-3-224; 53-3-303; 53-3-304; 49 CFR 391.43; 41-6a-518.2

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R708-22	Filing ID: 56540

Agency Information

1. Title catchline:	Public Safety, Driver License
Building:	Taylorville State Office Building
Street address:	4315 S 2700 W
City, state:	Taylorville, UT
Mailing address:	PO Box 144501

City, state and zip:	Salt Lake City, UT 84114-4501	
Contact persons:		
Name:	Phone:	Email:
Kim Gibb	801-556-8198	kgibb@utah.gov
Tara Zamora	801-964-4483	tarazamora@utah.gov
Britani Flores	801-884-8313	bflores@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R708-22. Commercial Driver License Administrative Proceedings
3. Purpose of the new rule or reason for the change:
This rule filing updates formatting, corrects the cited statute granting authority, and adds language to specify a designation for administrative proceedings.
4. Summary of the new rule or change:
This rule filing updates the formatting to include a purpose section to be in compliance with the Driver License Division's (Division) other rules. The statute granting authority has been changed from Section 53-3-104 to Sections 63G-4-202 and 63G-4-203. Additionally, verbiage has been added to designate commercial driver license administrative proceedings as informal.

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 a fiscal impact on the state budget. This rule change only clarifies an existing process that does not have any fiscal affect.
B) Local governments:
This rule change is not expected to have a fiscal impact on local governments. This rule change only clarifies an existing process that does not have any fiscal affect.

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

This rule change is not expected to have a fiscal impact on small businesses.

This rule change only clarifies an existing process that does not have any fiscal affect.

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

This rule change is not expected to have a fiscal impact on non-small businesses.

This rule change only clarifies an existing process that does not have any fiscal affect.

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

This rule change is not expected to have a fiscal impact on persons other than small business, non-small business, state, or local governments.

This rule change only clarifies an existing process that does not have any fiscal affect.

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

This rule change does not have any compliance costs.

This rule change only clarifies an existing process that does not have any fiscal affect.

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	FY2025	FY2026	FY2027
State Government	\$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	FY2025	FY2026	FY2027
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

The Commissioner of the Department of Public Safety, Jess L. Anderson, has reviewed and approved this regulatory impact analysis.

Citation Information

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

Section 63G-4-202	Section 63G-4-203	
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Public Notice Information

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

A) Comments will be accepted until: 07/15/2024

9. This rule change MAY become effective on: 07/22/2024

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

Agency Authorization Information

Agency head or designee and title:	Christopher Caras, Division Director	Date:	05/29/2024
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NOTICES OF PROPOSED RULES

R708. Public Safety, Driver License.

R708-22. Commercial Driver License Administrative Proceedings.

R708-22-1. Purpose.

This rule establishes procedures used by the Driver License Division regarding administrative proceedings for commercial driver licenses.

R708-22-~~1~~2. Authority.

This rule is authorized by S[ub]sections [53-3-104]63G-4-202 and 63G-4-203.

R708-22-~~2~~3. Commercial Driver License Administrative Proceedings.

~~[- All adjudicative proceedings for commercial driver license (CDL) holders, including but not limited to, the application for and denial, disqualification, suspension or revocation of authorization to operate any particular class or classes of vehicles, shall be conducted according to applicable rules for administrative proceedings as specified in section R708-14, and R708-35.]~~

(1) In compliance with Section 63G-4-202, the division has designated any division proceeding as informal.

(2) A division supervisor may convert any informal proceeding to a formal proceeding if the conversion will promote efficiency, public safety, and not unreasonably increase cost.

(3) An individual may represent themselves or be represented by a Utah state licensed attorney in the adjudicative proceeding.

(4) The division shall conduct administrative proceedings under Subsection (1) as specified in Rules R708-14 and R708-35.

KEY: administrative proceedings

Date of Last Change: 2024~~1989~~

Notice of Continuation: January 17, 2024

Authorizing, and Implemented or Interpreted Law: 53-3-104; 63G-4-102; 63G-4-202; 63G-4-203

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:	R990-300	Filing ID: 56544
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Agency Information

1. Title catchline:	Workforce Services, Housing and Community Development
Building:	Olene Walker Building
Street address:	140 E 300 S
City, state	Salt Lake City, UT
Mailing address:	PO Box 45244
City, state and zip:	Salt Lake City, UT 84145-0244

Contact persons:

Name:	Phone:	Email:
Robert Andreasen	801-517-4722	randreasen@utah.gov

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

General Information

2. Rule or section catchline:

R990-300. Review Process for Plan for Moderate Income Housing Reports

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

The purpose of this rule change is to implement legislative changes to the Housing and Community Development Division's process for reviewing moderate income housing reports, and to clarify terms and procedures for review of moderate income housing reports.

4. Summary of the new rule or change:

This rule change:

- 1) clarifies terms;
- 2) clarifies filing deadlines for moderate income housing reports;
- 3) provides additional information concerning review procedures and notification requirements;
- 4) identifies when additional or supplemental information will be accepted,
- 5) provides additional detail concerning appeals from a determination by the Housing and Community Development Division; and
- 6) clarifies how and when fees will be assessed for noncompliance.

This change also makes nonsubstantive edits to this rule.

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 any fiscal impact on state revenues or expenditures.

No additional state employees or resources will be needed to oversee this rule change. This rule change will not increase workload and can be carried out with existing budget.

B) Local governments:

This rule change impacts local governments by making minor adjustments to requirements for submission of moderate income housing reports and determinations of compliance, and clarifies the assessment of fees for noncompliance as set forth by Utah Code.

Fees imposed on local governments for noncompliance and a local government's eligibility for certain funds were adopted by the 2023 Utah Legislature and are not set or changed by this rule amendment.

The Department of Workforce Services (Department) anticipates no fiscal cost to local governments other than the existing and ongoing costs of complying with the statutory moderate income housing requirements.

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

There are no anticipated costs or savings for small businesses.

This rule change requires no action or expenditure by small businesses.

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

There are no anticipated costs or savings for non-small businesses.

This rule change requires no action or expenditure by 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 are no anticipated costs to other persons as the rule change rule requires no action or expenditure by any person.

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

There are no compliance costs for affected persons.

This rule change does not create new administrative fees or change any fees or eligibility criteria set by Utah Code.

The Department anticipates that local governments will incur no costs beyond the existing and ongoing costs of complying with the statutory moderate income housing requirements.

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

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

Regulatory Impact Table			
Fiscal Cost	FY2025	FY2026	FY2027
State Government	\$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	FY2025	FY2026	FY2027
State Government	\$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 Workforce Services, Casey Cameron, 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 35A-8-803	Section 10-9a-408	Section 17-27a-408
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Public Notice Information

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

A) Comments will be accepted until:	07/15/2024
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9. This rule change MAY become effective on:	07/22/2024
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Casey Cameron, Executive Director	Date:	05/31/2024
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R990. Workforce Services, Housing and Community Development.

R990-300. Review Process for Plan for Moderate Income Housing Reports.

R990-300-1. Authority.

This rule is authorized under Subsection 35A-8-803(3), which directs the [Utah Department of Workforce Services, Housing and Community Development D]division [(HCDD)]to make rules describing the review process for moderate income housing reports.

R990-300-2. Purpose.

(1) Pursuant to Subsection 35A-8-803(1), [(HCDD)]the division will:

(a) advise political subdivisions of serious housing problems existing within their jurisdiction that require concerted public action for solution;

(b) assist political subdivisions in defining housing objectives and preparing for adoption of a five-year action plan designed to accomplish housing objectives within their jurisdiction; and

(c) establish and maintain a database of moderate income housing units located within the state.

[(e)]2) [(f)]For reporting entities, [required to submit a moderate income housing report to the Department as described in Sections 10-9a-408 and 17-27a-408]the division will:

[(i)]a) assist in the creation of [the]moderate income housing reports; and

[(i)]b) review the reports for compliance with Sections 10-9a-408 and 17-27a-408[; and

(d) establish and maintain a database of moderate income housing units located within the state].

R990-300-3. Definitions.

Terms used in this rule are defined in Sections 10-9a-103, 10-9a-408, 17-27a-103, and 17-27a-408. In addition:

(1) "Moderate income housing report" means a reporting entity's initial report or subsequent progress report, submitted [annually in a form approved by the Department,]to document the reporting entity's progress [ef]on the moderate income housing element of [the]its general plan.

(2) ["Plan for moderate income housing" means a written document adopted by an entity's legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the entity's jurisdiction;

(b) an estimate of the need for moderate income housing in the entity's jurisdiction for the next five years;

- _____ (c) a survey of total residential land use;
- _____ (d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and
- _____ (e) a description of the entity's program to encourage an adequate supply of moderate income housing.]"Reporting entity" means an entity, including a specified municipality and a specified county, required to submit a moderate income housing report under Section 10-9a-408 or 17-27a-408.

R990-300-4. [Entities Required to Report]Time to File Moderate Income Housing Reports.

[Entities required to submit a moderate income housing report are described in Sections 10-9a-408 and 17-27a-408.](1) A reporting entity shall submit an initial report to the division on or before August 1 of the year the entity is required to report.

(2) A reporting entity shall submit a subsequent progress report to the division on or before August 1 of each year after the year in which the reporting entity is required to submit an initial report.

(3) If August 1 falls on a Saturday, Sunday, or legal holiday, the reporting entity shall submit the moderate income housing report on or before the next business day that is not a Saturday, Sunday, or legal holiday.

R990-300-5. Moderate Income Housing Report Submissions.

(1) [Annually, on or before August 1, the legislative body of each entity described in Sections 10-9a-408 and 17-27a-408 shall complete either an initial or subsequent progress moderate income housing report and submit the completed report to HCDD.

(a) If August 1 falls on a Saturday, Sunday, or legal holiday, the entity shall submit the report on or before the next business day that is not a Saturday, Sunday, or legal holiday.

(b) A report[A moderate income housing report must be submitted using the electronic form posted to the [(HCDD)]division's website.

(a) The electronic form will be available on the [(HCDD)]division's website no later than May 1 annually.

[(e)]b(i) [The form is a virtual survey and must be completed and submitted online.

(d)]The day of submission is determined by the time stamp on the virtual form submission.

(ii) A report time stamped after 11:59:59 p.m. on August 1 is untimely.

(2) [(HCDD)]The division will issue a notice of noncompliance to a[an] reporting entity if its moderate income housing report is untimely.

(a) [(HCDD)]The division will not review the untimely report further.

(a)]b) The reporting entity may request an appeal of the determination of noncompliance for untimeliness issued by [(HCDD)]the division.

(b)]c) If the appeal board finds the report was submitted timely, the board may remand the matter to [(HCDD)]the division to review the report for compliance under Section R990-300-6.[

(3) To be found compliant a subsequent progress report must be submitted timely and document progress on at least the minimum number and type of required strategies in Sections 10-9a-403, 10-9a-408, 17-27a-403, and 10-9a-408.

(4) To identify in a subsequent progress report how the market has responded to an entity's selected strategies the entity may use state, local, or other data to describe the changes the entity experienced in implementing each strategy.]

R990-300-6. Review Process for the Moderate Income Housing Report.

(1) ~~[HCDD]~~The division will review each moderate income housing report for completeness and compliance with Sections 10-9a-403, 10-9a-408, 17-27a-403, and 17-27a-408.

(2) ~~[After reviewing a report, HCDD will provide notice as provided in Sections 10-9a-408 and 17-27a-408.]~~A moderate income housing report is complete if it contains all required information and the minimum number of moderate income housing strategies in Sections 10-9a-403, 10-9a-408, 17-27a-403, and 17-27a-408.

(3) A moderate income housing report is compliant if it is submitted timely and meets the requirements for the report.

(a) The division will review an initial report to confirm the:

(i) proposed strategy restates the exact language used to describe the strategy in the Utah Code;

(ii) report includes the required number of strategies;

(iii) report includes the required types of strategies;

(iv) proposed timelines for implementation are specific and cover the five-year planning period; and

(v) proposed benchmarks are specific and measurable.

(b) The division will review a subsequent report to confirm the:

(i) strategies reported reflect the strategies selected in the reporting entity's implementation plan;

(ii) report includes the required number of strategies;

(iii) reporting entity met the timelines in the reporting entity's implementation plan; and

(iv) reporting entity made progress toward meeting the identified benchmarks.

(4) A reporting entity's failure to include the minimum statutory and administrative rule elements in a report will result in a determination of noncompliance.

(5) A reporting entity must substantially meet a timeline in its moderate income housing report to demonstrate compliance with the reporting entity's implementation plan.

(6) A reporting entity may use state, local, or other reliable data to describe the changes the entity experienced in implementing each strategy to identify in a subsequent progress report how the market has responded to a reporting entity's selected strategies.

(7) A reporting entity may submit more than the minimum required information in its moderate income housing report, but the report must include at least the minimum elements to be compliant.

~~(3)~~a Additional planning requirements are detailed in Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, Title 17, Chapter 27a, County Land Use, Development, and Management Act, or other sections of Utah Code.

(b) Although certain planning requirements are not included as part of the plan for moderate income housing or are not subject to review by ~~[HCDD]~~the division, a ~~[n]~~reporting entity may be required to demonstrate compliance with other requirements in its moderate income housing report, including station area plan requirements under Section 10-9a-403.1 or housing and transit reinvestment zone requirements under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

(8)(a) A reporting entity may amend its implementation plan at any time.

(b) A reporting entity may consult with the division before amending its implementation plan.

(c) The reporting entity shall detail in its subsequent progress report the amended implementation plan and the reporting

entity's progress on the original and the amended implementation plans.

R990-300-6a. Notice of Compliance or Noncompliance.

(1) The division will review a reporting entity's moderate income housing report within 90 days after the report is received.

(2) After reviewing a report, the division will provide notice as provided in Section 10-9a-408 or 17-27a-408.

(3)(a) If the division determines a moderate income housing report is noncompliant, the reporting entity may submit a corrected report within 90 days after the date the notice of noncompliance is sent.

(b) The division will review a corrected report within 30 days after the report is received.

R990-300-7. Cure Period.

(1) A ~~[n]~~reporting entity has no more than 90 calendar days after the day on which the notice of noncompliance is ~~[issued]~~sent to cure deficiencies in the submitted moderate income housing report.

(2) If a deficiency described in the notice of noncompliance requires the reporting entity to make a legislative change and the reporting entity does not pursue the first appeal opportunity, the legislative change must be completed by the legislative body and become effective within the 90-day cure period to cure the deficiency.

(3) If the reporting entity does not cure a deficiency within the 90-day period, the reporting entity will be ineligible for funding as provided in Sections 10-9a-408 and 17-27a-408.

(4) If a reporting entity submits corrections to cure deficiencies and the division determines the report remains noncompliant, the reporting entity may request an appeal.

R990-300-8. Procedure for Filing an Appeal to the Board.

(1) A ~~[n]~~reporting entity must request an appeal of ~~[HCDD]~~the division's determination of noncompliance within ten calendar days after the day on which the notice of noncompliance is sent.

(2) An appeal of a notice of noncompliance must be in writing and include:

(a) the name of the reporting entity filing the appeal and signature of its representative; and

(b) the grounds for appeal.

(3) In computing the period allowed for filing a timely appeal, the date as it appears on the notice of noncompliance is not included. The last calendar day of the appeal period is included in the computation, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the next business day that is not a Saturday, Sunday, or legal holiday.

(a) An appeal may be filed by email, facsimile, or physical delivery, including U.S. Mail, courier service, and hand-delivery.

(i) If an appeal is filed by email or facsimile, the date of filing is the date recorded on the email or facsimile.

(ii) If an appeal is filed by physical delivery, the date of filing is the date the appeal is received by ~~[HCDD]~~the division.

(b) If an appeal is filed by physical delivery, the filing entity is solely responsible for meeting the deadline. Any delay caused by a delivery service or other physical means will not be considered an acceptable reason for a late filing.

(4) Upon receiving a ~~[n]~~entity's request for an appeal of a notice of noncompliance, ~~[HCDD]~~the division will coordinate with the organizations identified in Sections 10-9a-408 and 17-27a-408 to

NOTICES OF PROPOSED RULES

designate appeal board representatives and facilitate the appeal board's review of the appeal.

(5)(a) A[~~an~~] reporting entity requesting an appeal may submit additional supporting materials and written arguments to the appeal board ~~within~~ no later than 15 calendar days ~~of~~ after the date of the request for an appeal.

(i) Supporting materials and written arguments received by the division will be forwarded to the appeal board.

(ii) Supporting materials and written arguments received more than 15 calendar days after the date of the request for an appeal will not be considered or forwarded to the appeal board.

(b) The appeal board will consider only materials that fall within the 12-month reporting period or that demonstrate whether the reporting entity meets the requirements for an ongoing strategy as described in Sections 10-9a-408 and 17-27a-408.

(6)(a) A reporting entity may withdraw a request for appeal by submitting a written request no later than seven days before the date of the first scheduled meeting of the appeal board appointed to consider the appeal.

(b) If the request for appeal is withdrawn, the reporting entity must cure any noncompliance within the initial 90-day cure period.

R990-300-9. Appeal Board Review.

(1) ~~[HCDD]The division will provide administrative support to the appeal board and will provide each board member a copy of the record on appeal, including the appealing entity's moderate income housing report, moderate income housing element of the general plan, notice of noncompliance, and any supporting materials or written arguments received from the appealing entity. [The appeal board, in its discretion, may request additional information or evidence.]~~

(2) Appeal board review is an informal proceeding for purposes of Title 63G, Chapter 4, Administrative Procedures Act.

~~(a) [No hearing will be held on the entity's appeal.]~~ A review may:

~~(b)(i) [The appeal board meeting will] include [only the members of the board and HCDD] a division staff member to present the conclusions of the division's review[-];~~

~~(ii) provide an opportunity for the reporting entity to present its reasons and evidence for the review request; and~~

~~(iii) include witnesses or legal representatives.~~

(b)(i) The appeal board may request additional information and evidence.

(ii) A reporting entity's failure to respond to a request by the appeal board for additional information or evidence without good cause may result in dismissal of the appeal.

(iii) Good cause for failing to respond to a request for additional information or evidence is limited to circumstances that are:

- (A) beyond the party's control; or
- (B) compelling and reasonable.

(3) If the appeal board determines an appeal is not timely filed, the board will not have jurisdiction to consider the merits of the appeal and will dismiss the appeal.

(4) The appeal board may summarily dismiss an appeal if the board determines the appeal does not state adequate grounds for the appeal or fails to identify alleged errors in the notice of noncompliance.

(5) The appeal board will issue a written decision within 90 calendar days of the day on which the appeal is filed. ~~[HCDD]The~~

division will deliver a copy of the appeal board's decision, including an explanation of the right to judicial review, to interested parties.

R990-300-10. Period of Noncompliance.

(1) If a[~~an~~] reporting entity's moderate income housing report is noncompliant and the entity is ineligible for the funds as provided in Sections 10-9a-408 and 17-27a-408 and this rule, the entity's next opportunity to submit a compliant report will be during the next reporting cycle, which begins on May 1.

(2) A[~~an~~] reporting entity described in Subsection (1) will remain in noncompliant status until:

(a) the reporting entity submits a moderate income housing report during the next reporting period for review by [HCDD]the division; and

(b)(i) [HCDD]the division issues a notice of compliance;
or

(ii) the appeal board determines the report is compliant.

R990-300-11. Noncompliance Fees.

(1) The daily fee required by Sections 10-9a-408 and 17-27a-408 for a noncompliant report shall begin to accrue the day after:

(a) the reporting deadline, if the reporting entity fails to submit a required report; or

(b) the deadline to cure deficiencies described in a notice of noncompliance, if the reporting entity fails to cure a deficiency.

(2)(a) If a reporting entity requests an appeal, and the appeal board reverses the division's determination of noncompliance, accrued noncompliance fees will be waived.

(b) If a reporting entity requests an appeal, and the appeal board affirms the division's determination of noncompliance, the daily fee will accrue in accordance with Subsection R990-300-11(1).

(3) Fees will accrue until the reporting entity submits a timely and compliant moderate income housing report for the next reporting period.

(a) Fee accrual will not end earlier than the day before the start of the next reporting period.

(b) Fee accrual will pause on the day before the day the division receives the report and remain paused while the division determines whether the report is compliant.

(i) If the division determines the report is compliant, fee accrual will end on the day before the day the division received the compliant report.

(ii) If the division determines the report is noncompliant, fee accrual will resume from the day the reporting entity submitted the noncompliant report.

(c) If the reporting entity requests an appeal of the division's determination under Subsection R990-300-11(3)(b), fee accrual will pause on the day before the day the appeal is received and remain paused while the appeal board considers the appeal.

(i) If the appeal board reverses the division's determination of noncompliance, fee accrual will end on the day before the day the division received the compliant report.

(ii) If the appeal board affirms the division's determination of noncompliance, fee accrual will resume from the day the reporting entity submitted the appeal.

(4)(a) The division will send a notice to a reporting entity subject to daily fees that the fee balance must be paid to the Olene Walker Housing Loan Fund within 60 days of the date the notice is sent.

(b) A reporting entity that fails to pay an outstanding fee balance to the Olene Walker Housing Loan Fund will be noncompliant.

KEY: moderate income housing reports
Date of Last Change: [~~August 24, 2023~~2024
Authorizing, and Implemented or Interpreted Law: 35A-8-803;
10-9a-408; 17-27a-408

End of the Notices of Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-DAY RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-DAY RULE** including the name of a contact person, justification for filing a **120-DAY RULE**, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **120-DAY RULE** is printed. New text is underlined (example) and text to be deleted is struck out with brackets surrounding the deleted text (~~example~~). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (.) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective when filed with the Office of Administrative Rules, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule. Because of its temporary nature, a **120-DAY RULE** is not codified as part of the *Utah Administrative Code*.

The law does not require a public comment period for **120-DAY RULES**. However, when an agency files a **120-DAY RULE**, it may file a **PROPOSED RULE** at the same time, to make the requirements permanent.

Emergency or **120-DAY RULES** are governed by Section 63G-3-304, and Section R15-4-8.

NOTICE OF EMERGENCY (120-DAY) RULE		
Rule or Section Number:	R70-101	Filing ID: 56535
Effective Date:	06/01/2024	

Kelly Pehrson	385-977-2147	kwpehrson@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

Agency Information

1. Title catchline:	Agriculture and Food, Regulatory Services	
Building:	Taylorsville State Office Building, South Building, Floor 2	
Street address:	4315 S 2700 W	
City, state	Taylorsville, UT	
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
Travis Waller	801-982-2250	Twaller@utah.gov

General Information

2. Rule or section catchline:
R70-101. Bedding, Upholstered Furniture, and Quilted Clothing
3. Purpose of the new rule or reason for the change:
In April 2023, the Department of Agriculture and Food (Department) published a rule change that clarified the law label requirements for upholstered furniture that are applicable online, as well as brick and mortar sales.
Based on feedback from the furniture industry regarding the difficulty of satisfying the new rule requirements, the Department has agreed to remove the reference to the online sales and draft new changes.
The Department has been working closely with the industry to set a requirement that ensures consumers receive relevant information.

Per the rulemaking timelines, the Bulletin will publish the revised rule in early summer, and after the original emergency rule filing has expired. This filing will allow the Department and industry to continue to collaborate on the revised rule.

The Department aims to maintain industry compliance until all parties agree on the updated changes that will apply to online sales.

4. Summary of the new rule or change:

The changes remove references to online sales from Sections R70-101-2, R70-101-3, and R70-101-18.

5A) The agency finds that regular rulemaking would:

- cause an imminent peril to the public health, safety, or welfare;
- cause an imminent budget reduction because of budget restraints, or federal requirements; or
- place the agency in violation of federal or state law.

B) Specific reasons and justifications for this finding:

The Department has met with large furniture manufacturers who have reported that they cannot satisfy the requirements of the current rule regarding online sales.

The Department is concerned that these manufacturers will choose to discontinue selling products in Utah unless the Department changes the rule requirements.

The potential financial loss in Utah could be in the millions of dollars each year and detrimental to public welfare.

Fiscal Information

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

A) State budget:

The Department has not fully implemented the changes from the rule published in April 2023.

Removing these changes will not impact the state budget and the program will continue to operate under the current resources.

B) Local governments:

The changes will not impact local governments because they do not sell or regulate bedding, upholstered furniture, or quilted clothing.

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

The Department has not fully implemented the previous changes and these changes would not impact small businesses.

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 the industry and Department have not fully implemented the removed changes.

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

Compliance costs will not change. The rule changes decrease the regulatory burden.

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 change will not have a fiscal impact on business. 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:

Section 4-10-103		
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Agency Authorization Information

Agency head or designee and title:	Craig W. Buttars, Commissioner	Date:	05/28/2024
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R70. Agriculture and Food, Regulatory Services.

R70-101. Bedding, Upholstered Furniture, and Quilted Clothing.

R70-101-1. Authority and Purpose.
Pursuant to Section 4-10-103, this rule establishes the standards, practices, and procedures for the manufacture, repair, sale, and distribution of bedding, upholstered furniture, quilted clothing products, and filling materials.

R70-101-2. Definitions.

- (1) "Clean" means free from stains, dirt, trash, filth, pulp, sludge, oil, grease, fat, skin, epidermis, excreta, vermin, insects, insect eggs, insect carcasses, contamination, hazardous materials, or residual or objectionable substances or odors.
- (2) "Department" means the Utah Department of Agriculture and Food.
- (3) "Law Label or Label" means a tag attached to bedding or upholstered furniture that provides information about the product to the consumer.
- (4) "Manufacture" means the making, processing, or preparing of new or secondhand bedding, upholstered furniture, quilted clothing, or filling material.
- (5) "Manufacturer" means a person who makes or has employees make any bedding, upholstered furniture, quilted clothing, filling material, or any part.

(6) "Non-resident" means a person permitted under this rule who does not have premises in Utah.

~~(7) "Online Retailer" means any person who advertises and markets via the internet and another electronic network.]~~

(8) "Person" means an individual, partnership, association, firm, auctioneer, trust, limited liability company, or corporation.

(9) "Premises" means any place where bedding, upholstered furniture, quilted clothing, or filling material is sold, offered for sale, exposed for sale, stored, renovated, or manufactured, and the delivery vehicle used in their transportation.

(10) "Supply dealer" means a person who manufactures, processes, or sells at wholesale any felt, batting, pads, or other fillings, loose in a bag, in a bale or a container, concealed or not concealed, intended for use in bedding, upholstered furniture, or quilted clothing.

(11) "Second Hand Law Tag" or "Tag" means a tag attached to a product or filling material that has previously been used.

(12) "Sterilization Permit Number" means the number issued by a state to be used on any filling material or on the label for bedding, upholstered furniture, or quilted clothing to identify the sterilizing facility, person, or company.

(13) "Sterilize" means a process used to make wool, feathers, down, shoddy, or hair free from bacteria or any other living microorganism.

(14) "Sterilizer" means a person who sterilizes wool, feathers, down, shoddy, or hair.

(15) "Textile Label or Label" means a tag attached to a quilted clothing product that provides information required in 16 CFR Parts 300, 301, 303 and this rule.

(16) "Uniform Registry Number or URN" means the number issued by a state to be used on the law label of bedding, furniture, or filling material to identify the manufacturing facility, person, or company.

R70-101-3. Application of Rule.

This rule shall apply to any person engaged in the business of manufacturing, retailing~~, online retailing~~, wholesaling, processing, repairing, sterilizing, and selling items of bedding, upholstered furniture, quilted clothing, and filling material, regardless of their point of origin.

R70-101-4. Permit Requirements for Manufacturers, Repairers, and Wholesalers.

(1) Any person who advertises, solicits, or contracts to manufacture or repair bedding, upholstered furniture, or filling material shall secure a permit from the department before the product is offered for sale in Utah.

(2) Any person who advertises, solicits, or contracts to manufacture quilted clothing shall secure a permit from the department before the product is offered for sale in Utah.

(3) Any person seeking a permit shall provide the following to the department:

- (a) a completed registration form; and
 - (b) a sample of the label that will be used.
- (4) A wholesale bedding, upholstered furniture dealer, are exempted from providing a label to the department.

(5) A registration fee shall be assessed annually. This fee shall be paid before January 1 or a late fee shall be assessed. Each fee is listed in the department's fee schedule that is approved by the Legislature.

R70-101-5. Sterilization Permit Requirements for Sterilizers.

(1) A person who advertises, solicits, or contracts as a sterilizer shall secure a sterilization permit from the department before sterilized products are offered for sale in Utah.

(2) A person seeking a sterilization permit shall provide the department with a sterilization permit application completed by a department authorized third party inspector.

(3) A permit fee shall be assessed annually. This fee shall be paid before January 1 or a late fee will be assessed. Each fee is listed in the department's fee schedule that is approved by the Legislature.

(4) The inspection for a sterilization permit shall be conducted every three years.

(5) A copy of the inspection report shall be submitted to the department with the renewal form for that year.

R70-101-6. Revocation of Permit.

(1) The department shall have the authority to suspend or revoke a permit for any violation of these provisions.

(2) A suspension or revocation shall be in accordance with Section 4-1-106.

R70-101-7. Sanitation Requirements.

(1) The premises, delivery equipment, machinery, and any appliances, article, and devices shall be kept free from refuse, dirt, contamination, or insects.

(2) No person shall use in the making, repairing, or renovating of bedding, upholstered furniture, or quilted clothing any filling material that:

- (a) contains any insect, vermin, or filth;
- (b) is not clean; or
- (c) contains burlap or other material that has been used for

baling.

(3) Bedding, quilted clothing, and filling material shall be stored four inches off the floor.

(4) New and used products shall be stored separately.

R70-101-8. Sterilization Requirements for New Fill Material.

(1) Any wool, feathers, down, shoddy, and hair shall be cleaned and sterilized before being used as new filling material.

(2) Methods for Sterilization.

(a) Pressure Steam. The material shall be subjected to treatment by steam at 15 PSI (.104 mPA) for 30 minutes or 20 PSI (.0138 mPA) for 20 minutes. The gauge for registering steam pressure must be visible from the outside of the room or chamber.

(b) Streaming Steam. Two applications of streaming steam maintained for a period of one hour each, applied at intervals of not less than six nor more than 24 hours, may be used. Valved outlets shall be provided near the bottom and the top of the room or chamber when streaming steam is employed.

(c) Heat. A temperature of 235 degrees F held for a period of two hours, within a closed container is considered satisfactory for proper sterilization.

(d) Other methods of sterilization may be approved by the department upon petition.

R70-101-9. Manufacturing, Wholesale, Sterilizers, and Supply Dealer Labeling Requirements for Quilted Clothing.

(1) The department incorporates by reference the October 19, 2017 version of the 16 CFR Parts 300 and 301, and the November 5, 2020 version of 16 CFR Part 303.

(2) Articles of plumage-filled clothing shall meet the following label requirements.

(a) Any label stating the contents of Down, Goose Down, or Duck Down shall also state the minimum percentage of Down, Goose Down, or Duck Down that is contained in the article. The down label is a qualified general label and shall include in parentheses the minimum percentage of down in the product which shall be 75% or greater.

(b) "Down and Waterfowl Feathers" may be used to designate any plumage product containing between 50% minimum and 74% down and plumules. The percentage of both shall be stated on the sewn-in label and hang tags.

(c) "Waterfowl Feathers and Down" may be used to designate any plumage product containing between 5% minimum and 49% down and plumules. The percentage of both shall be stated on the sewn-in label and hang tags.

(d) "Waterfowl Feathers" may be used to designate any plumage product containing less than 5% down and plumules.

(e) Quill feathers are not permitted unless disclosed.

(f) Other plumage products that do not meet the requirements for any of the listed categories from Subsection R70-101-9(2) shall be labeled accurately with each component listed separately in order of predominance.

(3) The sterilization permit number "PER. NO. " shall be listed on the textile label.

(4) The form of identification used on a label and a tag shall be the same as those supplied to the department with the registration application.

(5) The textile label shall be easily accessible to the consumer for examination before purchase.

R70-101-10. Filling Material.

(1) Each term or definition of a filling material shall be the term that has been submitted and approved by the International Association of Bedding Law Officials (IABFLO), except as otherwise required by this rule.

(2) Notwithstanding Subsection R70-101-10(1), the term "recycled" may be used if the manufacturing facility:

(a) is Global Recycled Standard (GRS) certified;

(b) provides proof of GRS certification to the department on the registration form; and

(c) provides a copy of the certificate or the certification number on the invoice to the retailer for each lot or batch of filling material.

(3) The manufacturing facility shall provide a copy of the certificate or the certification numbers for each batch or lot to the department upon request.

(4) Plumage material shall follow the standards as outlined in the "USA-2000 Labeling Standards- Down and Feather Products" and ASTM D-4522, which are incorporated by reference.

(5) Any other filling material shall be clean.

(6) "Imperfect, irregular foam" means any foam product that shows a major imperfection or that falls below the foam manufacturer's usual standards or specifications and must be stated on the tag as "imperfect" or "irregular" along with the generic name of the foam.

(7) "Imperfect, irregular fibers" shall mean any fiber that has an imperfection or that falls below the fiber manufacturer's usual standards or specifications and must be stated on the tag as "imperfect" or "irregular" along with the generic name of the fiber.

(8) The terms "Prime," "Super," "Northern," and similar terms shall not be used unless the fill can be proved to be of superior quality and meet the terms of the qualifying statement.

R70-101-11. Generic Names, Grades, Descriptive Terms, and Definitions of Filling Material.

(1) Filling material shall be described on the label and the tag using the:

(a) true generic name;

(b) grade;

(c) description terms; or

(d) definition of the filling material that has been approved by the department.

(2) When more than one kind of filling material is used in a mixture, the percentage by weight shall be listed in order of predominance.

(a) Federal fiber tolerance standards are applicable, except as pertains to a plumage product.

(b) Blends may be described in accordance with Section R70-101-10.

(3) When a different filling material is used in different parts of the garment, the areas of the garment shall be named, followed by the name of the filling material used in that area.

R70-101-12. Manufacturer Identification and Law Label Requirements for Bedding and Upholstered Furniture.

(1) The form of identification used on a law label and tag shall be the same as those supplied to the department with the registration.

(2) For any article of bedding and upholstered furniture, the law label shall use the format adopted by the IABFLO, as listed in the "Manual of Labeling Laws" of the International Sleep Products Association, 2021 edition, which is incorporated by reference. A copy of the incorporated edition of the "Manual of Labeling Laws" is available for public inspection at the department.

(3) The law label for a newly manufactured product shall meet the following requirements:

(a) white on each side of the label;

(b) made of material that cannot be easily torn;

(c) printed in black ink;

(d) printed in English;

(e) printed clearly and legibly; and

(f) firmly attached to the article.

(4) Required information shall be printed on one side of the label with the opposite side remaining blank.

(5) Each law label shall state the following, in order:

(a) the phrase "UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER" in bold at the top of the label in capital letters no less than 1/8 inches in height;

(b) the phrase "ALL NEW MATERIAL" in bold, capital letters no less than 1/8 inch in height, followed by the phrase "CONSISTING OF", no case or height requirements, followed by the filling contents in bold capital letters no less than 1/8 inch in height;

(c) the words "CONTENTS STERILIZED" in bold capital letters no less than 1/8 inch in height;

(d) the URN issued by the state in which the firm is first registered;

(e) the sterilization permit number of the sterilization facility from which the material was obtained, in bold capital letters no less than 1/8 inch in height;

NOTICES OF 120-DAY (EMERGENCY) RULES

(f) the phrase, "Certification is made by the manufacturer that the materials in this article are described in accordance with law"; and

(g) the name and complete address of the manufacturer, importer, or vendor of the article.

(6) The law label shall be easily accessible to the consumer for examination [~~before purchase~~].

(a) A product that is offered for sale in a box or in other packaging that makes a law label inaccessible shall reproduce a legible facsimile of the law label on the outer container or covering.

(7) No mark, label, printed matter, illustration, sticker, or other device shall be placed upon the label.

(8) The firm's license or permit with the state that issued the URN must be kept current for the number to be valid in Utah.

(9) Each firm doing business under more than one state-issued URN or permit shall obtain a permit for each number used on a product that is offered for sale in Utah.

R70-101-13. Second Hand Law Tags and Tagging Requirements.

(1) A tag for second hand material shall be:

(a) a minimum of two inches by three inches;

(b) yellow on both sides of the tag;

(c) made of material that cannot be easily torn;

(d) printed in English;

(e) printed in black ink;

(f) printed clearly and legibly; and

(g) firmly attached to the article.

(2) Required information shall be printed on one side of the tag with the opposite side remaining blank.

(3) A second hand tag shall contain the following information, in order:

(a) the phrase "UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER" in bold at the top of the label in capital letters, no less than 1/8 inch in height;

(b) the phrase, "THIS ARTICLE CONTAINS SECOND HAND MATERIAL CONSISTING OF CONTENTS UNKNOWN". The words "SECONDHAND MATERIAL" and "CONTENTS UNKNOWN" shall be in capital letters, size not less than 1/8 inches in height;

(c) the phrase, "Certification is made that the materials in this article are described in accordance with law"; and

(d) the store name and complete corporate address.

(4) The tag shall be easily accessible to the consumer for examination.

(5) No mark, label, printed matter, illustration, sticker, or any other device shall be placed upon the tag.

R70-101-14. Second Hand Tag and Tagging Requirements for Repaired, Reupholstered, and Renovated Products.

(1) A tag for a repaired, reupholstered, and renovated product shall be:

(a) a minimum of two inches by three inches;

(b) yellow on both sides of the tag;

(c) made of material that cannot be easily torn;

(d) have the required information printed on one side of the tag with the opposite side remaining blank;

(e) printed in English;

(f) printed in black ink;

(g) printed clearly and legibly; and

(h) firmly attached to the article.

(2) A second hand tag shall contain the following information, in order:

(a) the phrase, "UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER" in bold at the top of the label in capital letters, no less than 1/8 inch in height;

(b) the phrase, "THIS ARTICLE IS NOT FOR SALE OWNER'S MATERIAL" in bold in capital letters, no less than 1/8 inch in height;

(c) the phrase, "CERTIFICATION IS MADE THAT THIS ARTICLE CONTAINS THE SAME MATERIAL IT DID WHEN RECEIVED FROM THE OWNER AND THAT ADDED MATERIALS ARE DESCRIBED IN THE ACCORDANCE WITH LAW, AND CONSIST OF THE FOLLOWING:" followed by a description of the filling material;

(d) a description of the work that was done on the product;

(e) the URN number;

(f) the name and address of the renovator or repairer; and

(g) the date of pick-up, owner's name, and address.

R70-101-15. Used Mattresses.

(1) A retailer selling a customer returned, refurbished, or used mattress shall follow the second hand law tag requirements as set out in Section R70-101-13.

(2) In addition, a retailer shall also display on the mattress a tag stating "USED" in bold capital letters.

(3) The USED tag shall be:

(a) a minimum of three inches by six inches;

(b) yellow on both sides of the tag;

(c) the font shall be a minimum of one inch in height;

(d) printed in black ink; and

(e) printed in English.

(4) Required information shall be printed on one side of the tag with the opposite side remaining blank.

(5) The USED tag shall be clearly visible to the consumer.

R70-101-16. Variance.

(1) The department may issue a variance on label and tag requirements.

(2) A request for a variance shall be made to the department in writing and shall contain the following information:

(a) the product associated with the variance request;

(b) where the variance will be used;

(c) an explanation of the need for a variance;

(d) a description of how the variance will be used in practice; and

(e) an example of the label or tag that will be used in place of the required label or tag.

(3) Approval of a variance shall be given from the department in writing.

(4) A variance shall be subject to a period of review.

R70-101-17. Making or Selling Material or Parts.

A person shall not purchase, make, process, prepare, or sell, directly or indirectly, at wholesale or retail, or otherwise, any filling material or other component parts to be used in bedding, upholstered furniture, or quilted clothing, unless such material is appropriately tagged.

R70-101-18. Retailer Responsibilities.

(1) A retailer [~~, including online retailers,~~] shall:

(a) ensure that any article of bedding, upholstered furniture, quilted clothing, or filling material sold is labeled and tagged correctly;

(b) ensure the label is easily accessible to the consumer for examination ~~[before purchase]~~;

(c) comply with state law and the department's rules governing false and misleading advertisement;

(d) ensure that the manufacturer from whom a retailer purchases a product has a valid permit with the department; and

(e) ensure that the importer from whom a retailer purchases a product has a valid permit with the department.

(2) Upon request of the department, a retailer shall provide the identity of the manufacturer or wholesaler of an article of bedding, upholstered furniture, quilted clothing, or filling material sold.

(3) A retailer may register in lieu of the manufacturer or wholesaler if the manufacturer or wholesaler is not registered.

(4) A retailer shall ensure that bedding or filling material using the term "recycled":

(a) is from a GRS certified facility; and

(b) has a certificate or certification number.

R70-101-19. Violations.

(1) Each improperly labeled or tagged article of bedding, upholstered furniture, quilted clothing, or filling material made or sold shall be a separate violation of this rule.

(2) No person shall be in violation if that person received, from the manufacturer or supplier of the article, a guarantee in good faith that the article is not contrary to this rule in the form prescribed by the Textile Fiber Products Identification Act, 15 U.S.C. 70, Wool Products Labeling Act, 15 U.S.C. 68, and related Federal Trade Commission rules.

(3) No person shall remove, or cause to be removed, any tag, or device placed upon any article of bedding, upholstered furniture, quilted clothing, or filling material by an inspector.

(4) No person may remove an article that has been condemned and ordered held on inspection notice.

(5) No person shall interfere with, obstruct, or hinder any inspector of the department in the performance of the inspector's duties.

(6) Any article of bedding, upholstered furniture, quilted clothing, or filling material manufactured or wholesaled by a manufacturer or wholesaler who is not registered or permitted may be withheld from sale until the manufacturer or wholesaler registers or obtains a permit.

(7) No person shall use the term "recycled" for bedding or filling material unless they meet the requirements of Subsection R701-101-10(2).

R70-101-20. Products Not Intended for Use Subject to This Rule.

(1) The Commissioner may exclude from this rule a textile fiber product:

(a) that has an insignificant or inconsequential textile fiber content; or

(b) if the disclosure of the textile fiber content is not necessary for the protection of the consumer.

KEY: inspections, labeling, quality control, registration

Date of Last Change: June 1, 2024

Notice of Continuation: March 12, 2020

Authorizing, and Implemented or Interpreted Law: 4-10-103

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.

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R35-1	Filing ID: 55850
Effective Date:	05/20/2024	

Agency Information

1. Title catchline:	Government Operations, Records Committee	
Building:	Taylorsville State Office Building	
Street address:	346 S Rio Grande St	
City, state	Salt Lake City, UT 84101	
Mailing address:	PO Box 141007	
City, state and zip:	Salt Lake City, UT 84114-1007	
Contact persons:		
Name:	Phone:	Email:
Rebekkah Shaw	385-386-1955	rshaw@utah.gov
Kendra Yates	801-531-3856	kendrayates@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:	R35-1. State Records Committee Hearing 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:	

The underlying legal authority for this rule still exists at Subsection 63G-2-403(4)(b)(ii)(B) which directs the State Records Committee (Committee) to establish procedures.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments have been received on this rule in the last 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 is still required to provide procedures for participating parties to prepare for a hearing before the Committee. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Kenneth Williams, Director	Date:	05/23/2024
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R35-1a	Filing ID: 55398
Effective Date:	05/20/2024	

Agency Information

1. Title catchline:	Government Operations, Records Committee
Building:	Taylorsville State Office Building
Street address:	346 S Rio Grande St

City, state	Salt Lake City, UT 84101	
Mailing address:	PO Box 141007	
City, state and zip:	Salt Lake City, UT 84114-1007	
Contact persons:		
Name:	Phone:	Email:
Rebekkah Shaw	385-386-1955	rshaw@utah.gov
Kendra Yates	801-531-3856	kendrayates@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R35-1a. State Records Committee Definitions
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
The underlying legal authority for this rule still exists at Subsection 63G-2-403(4)(b)(ii)(B) which directs the State Records Committee (Committee) to establish procedures.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule in the last 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 is still required to provide procedures for participating parties to prepare for a hearing before the Committee. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Kenneth Williams, Director	Date:	05/23/2024
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R35-2	Filing ID:	56418
Effective Date:	05/20/2024		

Agency Information

1. Title catchline:	Government Operations Records Committee	
Building:	State Records Committee	
Street address:	346 S Rio Grande St	
City, state	Salt Lake City, UT 84101	
Contact persons:		
Name:	Phone:	Email:
Rebekkah Shaw	801-531-3851	rshaw@utah.gov
Michelle Adams	385-501-9006	michelledadams@agutah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R35-2. Scheduling and Declining Hearings
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
The underlying legal authority for this rule still exists at Subsection 63G-2-403(4)(b)(ii)(B) which directs the State Records Committee to establish filing and publication procedures.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule in the last 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 is still required to provide procedures for the executive secretary to follow in scheduling or declining appeals. It also provides instruction for the public to know what is required to submit a complete appeal and what process was followed if their appeal is declined. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Kenneth Williams, Director	Date:	05/23/2024
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	R35-4	Filing ID: 55400
Effective Date:	05/20/2024	

Agency Information

1. Title catchline:	Government Operations, Records Committee	
Building:	Taylorsville State Office Building	
Street address:	346 S Rio Grande St	
City, state	Salt Lake City, UT 84101	
Mailing address:	PO Box 141007	
City, state and zip:	Salt Lake City, UT 84114-1007	
Contact persons:		
Name:	Phone:	Email:
Rebekkah Shaw	385-386-1955	rshaw@utah.gov
Kendra Yates	801-531-3856	kendrayates@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R35-4. Compliance with State Records Committee Decisions and Orders
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
The underlying legal authority for this rule still exists at Subsection 63G-2-403(4)(b)(ii)(B) which directs the State Records Committee to establish filing and publication procedures.
This rule establishes requirements for a notice of compliance a governmental entity may need to submit to the committee when an appeal is granted per Subsections 63G-2-403(15)(c) and (d).
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received on this rule in the last 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 is still required to provide procedures for participating parties to understand what is contained in a

notice of compliance. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Kenneth Williams, Director	Date:	05/23/2024
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	R35-5	Filing ID: 55401
Effective Date:	05/20/2024	

Agency Information

1. Title catchline:	Government Operations, Records Committee.	
Building:	Taylorsville State Office Building	
Street address:	346 S Rio Grande St	
City, state	Salt Lake City, UT 84101	
Mailing address:	PO Box 141007	
City, state and zip:	Salt Lake City, UT 84114-1007	
Contact persons:		
Name:	Phone:	Email:
Rebekkah Shaw	385-386-1955	rshaw@utah.gov
Kendra Yates	801-531-3856	kendrayates@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R35-5. Subpoenas Issued by the Records Committee
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
The underlying legal authority for this rule still exists at Subsection 63G-2-403(4)(b)(ii)(B) which directs the State Records Committee to establish filing and publication procedures.
This rule establishes procedures regarding subpoena requests per Subsection 63G-2-403(10).
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments have been received on this rule in the last 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 is still required to provide procedures for participating parties to request a subpoena. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Kenneth Williams, Director	Date:	05/23/2024
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R35-6	Filing ID:	55845
Effective Date:	05/20/2024		

Agency Information

1. Title catchline:	Government Operations, Records Committee.		
Building:	Taylorsville State Office Building		
Street address:	346 S Rio Grande St		
City, state	Salt Lake City, UT 84101		
Mailing address:	PO Box 141007		
City, state and zip:	Salt Lake City, UT 84114-1007		
Contact persons:			
Name:	Phone:	Email:	
Rebekkah Shaw	385-386-1955	rshaw@utah.gov	
Kendra Yates	801-531-3856	kendrayates@utah.gov	
Please address questions regarding information on this notice to the persons listed above.			

General Information

2. Rule catchline:	R35-6. Expedited Hearing
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:	The underlying legal authority for this rule still exists at Subsection 63G-2-403(4)(b)(ii)(B) which directs the State Records Committee to establish filing and publication procedures.

This rule establishes procedures for the committee's expedited hearings per Subsection 63G-2-403(4)(a)(i).

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments have been received on this rule in the last 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 is still required to provide expedited hearing procedures to the public and governmental entities who could participate in a hearing. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Kenneth Williams, Director	Date:	05/23/2024
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R380-25	Filing ID:	55930
Effective Date:	05/29/2024		

Agency Information

1. Title catchline:	Health and Human Services, Administration		
Building:	Martha Hughes Cannon Building		
Street address:	288 N 1460 W		
City, state	Salt Lake City, UT		
Contact persons:			
Name:	Phone:	Email:	
Valli Chidambaram	385-499-1595	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 catchline:	R380-25. Submission of Data Through an Electronic Data Interchange
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:	

Subsections 26B-1-202(28), 26B-1-202(29), 26B-1-202(30), 26B-1-202(26), 26B-1-202(37), and 26B-1-202(42) and Sections 26B-8-404 and 26B-8-405 authorize this rule to allow the Department of Health and Human Services (Department) to accept submissions of data through an electronic data interchange.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department has received no comments 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:

This rule allows the Department to continue to accept submissions of data through an electronic data interchange. If the rule were to expire, the Department could be at risk of not receiving the data that an electronic data interchange provides and could therefore be at risk of operating with outdated or incomplete information. Therefore, this rule should be continued.

As there were no comments received in opposition to this rule, the Department did not respond to comments.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	05/29/2024
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R414-7a	Filing ID:	55951
Effective Date:	05/17/2024		

Agency Information

1. Title catchline:	Health and Human Services, Integrated Healthcare		
Building:	Cannon Health Building		
Street address:	288 N 1460 W		
City, state	Salt Lake City, UT		
Mailing address:	PO Box 143102		
City, state and zip:	Salt Lake City, UT 84114-3102		
Contact persons:			
Name:	Phone:	Email:	
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov	

Mariah Noble	385-214-1150	mariahnoble@utah.gov
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Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule catchline:

R414-7a. Medicaid Certification of New Nursing Facilities

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 26B-3-108 requires the Department of Health and Human Services (Department) to implement Medicaid through administrative rules, and Section 26B-1-213 grants the Department the authority to adopt, amend, or rescind these rules.

Additionally, Section 26B-3-312 specifies that adjudicative decisions are subject to review and appeal.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department has not received any written comments either in support or opposition regarding this rule since its last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary because it implements the adjudicative process to administer Medicaid certification of nursing facility programs, as required by statute. Therefore, this rule should be continued.

The Department has not received any comments in opposition to this rule.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	05/06/2024
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R414-31	Filing ID:	55977
Effective Date:	05/29/2024		

Agency Information

1. Title catchline:	Health and Human Services, Integrated Healthcare		
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Building:	Cannon Health Building	
Street address:	288 N. 1460 W.	
City, state	Salt Lake City, UT	
Mailing address:	PO Box 143102	
City, state and zip:	Salt Lake City, UT 84114-3102	
Contact persons:		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
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 catchline:
R414-31. Inpatient Psychiatric Services for Individuals Under 21 Years of Age
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 26B-3-108 requires the Department of Health and Human Services (Department) to implement Medicaid through administrative rules, and Section 26B-1-213 grants the Department the authority to adopt, amend, or rescind these rules.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department has not received any written comments regarding this rule since its last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule sets forth conditions and coverage for inpatient psychiatric services for individuals under 21 years of age, which the state has elected to cover, and is therefore necessary for compliance with the state's choice.
As there were no comments in opposition to this rule, the Department has not responded to comments.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	05/29/2024
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	R414-49	Filing ID: 55938
Effective Date:	05/29/2024	

Agency Information

1. Title catchline:	Health and Human Services, Integrated Healthcare	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state	Salt Lake City, UT	
Mailing address:	PO Box 143102	
City, state and zip:	Salt Lake City, UT 84114-3102	
Contact persons:		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
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 catchline:
R414-49. Dental, Oral, and Maxillofacial Surgeons and Orthodontia
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 26B-3-108 requires the Department of Health and Human Services (Department) to implement Medicaid through administrative rules, and Section 26B-1-213 grants the Department the authority to adopt, amend, or rescind these rules.
Additionally, 42 CFR 440.130 authorizes preventive services for Medicaid members.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department has not received any written comments regarding this rule since its last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary for compliance with the Utah Medicaid State Plan, the Dental, Oral Maxillofacial, and Orthodontia Services Utah Medicaid Provider Manual, and

statute. This rule provides the scope of dental services for members who are eligible under the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) program, pregnant members, blind or disabled members, aged members, members of the targeted adult Medicaid population, and members who are otherwise eligible under Medicaid and qualify for emergency dental. Therefore, this rule should be continued.

As there were no comments in opposition to this rule, the Department has not responded to comments.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	05/29/2024
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R414-502	Filing ID:	55498
Effective Date:	05/29/2024		

Agency Information

1. Title catchline:	Health and Human Services, Integrated Healthcare		
Building:	Cannon Health Building		
Street address:	288 N 1460 W		
City, state	Salt Lake City, UT		
Mailing address:	PO Box 143102		
City, state and zip:	Salt Lake City, UT 84114-3102		
Contact persons:			
Name:	Phone:	Email:	
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov	
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 catchline:	R414-502. Nursing Facility Levels of Care
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:	Section 26B-3-108 requires the Department of Health and Human Services (Department) to implement Medicaid through administrative rules, and Section 26B-1-213

grants the Department the authority to adopt, amend, or rescind these rules.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department has not received any written comments regarding this rule since its last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary as it defines the levels of care that nursing facilities may provide for Medicaid members, as is statutorily required. Therefore, this rule should be continued.

As there were no comments in opposition to this rule, the Department has not responded to comments.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	05/29/2024
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R414-503	Filing ID:	55609
Effective Date:	05/29/2024		

Agency Information

1. Title catchline:	Health and Human Services, Integrated Healthcare		
Building:	Cannon Health Building		
Street address:	288 N 1460 W		
City, state	Salt Lake City, UT		
Mailing address:	PO Box 143102		
City, state and zip:	Salt Lake City, UT 84114-3102		
Contact persons:			
Name:	Phone:	Email:	
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov	
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 catchline:
R414-503. Preadmission Screening and Resident Review
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 26B-3-108 requires the Department of Health and Human Services (Department) to implement Medicaid through administrative rules, and Section 26B-1-213 grants the Department the authority to adopt, amend, or rescind these rules.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department has not received any written comments regarding this rule since its last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The Department has determined this rule is necessary because it implements the federally required preadmission screening and resident review of nursing facility residents with serious mental illness or intellectual disability. Therefore, this rule should be continued.
As there were no comments in opposition to this rule, the Department has not responded to comments.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	05/29/2024
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R512-310	Filing ID:	55643
Effective Date:	05/29/2024		

Agency Information

1. Title catchline:	Health and Human Services, Child and Family Services	
Building:	Multi-Agency State Office Building	
Street address:	195 N 1950 W	
City, state	Salt Lake City, UT	
Contact persons:		
Name:	Phone:	Email:
Carol Miller	801-557-1772	carolmiller@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 catchline:
R512-310. Reasonable and Prudent Parent Standard
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 80-2-302 authorizes the Division of Child and Family Services (Division) to make rules to clarify the scope of services the division provides to families in Utah.
Section 80-2-301 assigns the Division responsibilities as the child, youth, and family services authority of the state.
Section 80-2-308 gives the Division the responsibility for normalizing the lives of children and outlines requirements for caregiver decision making.
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 Health and Human Services (Department) has not received any comments about this rule since its last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary for the Division to establish standards for normalcy for a child who is in state custody, including a reasonable and prudent parent standard and normalizing activities for children, as required by statute. Therefore, this rule should be continued.
As there were no comments in opposition to this rule, the Department did not respond to any comments.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	05/29/2024
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R590-171	Filing ID:	56218
Effective Date:	05/21/2024		

Agency Information

1. Title catchline:	Insurance, Administration	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state	Taylorsville, UT	
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:
R590-171. Surplus Lines Procedures Rule
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, the Insurance Code.
Section 31A-15-103 authorizes the insurance commissioner to establish an organization to examine surplus lines policies to ensure compliance with the requirements of the law and payment of taxes.
Section 31A-15-111 authorizes the insurance commissioner to require that surplus lines brokers be members of an advisory organization established by this 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:
The Department of Insurance 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 defines the authority of the Surplus Line Association of Utah, outlines the conditions for placing insurance with surplus lines insurers, and provides examination requirements for the Surplus Line Association of Utah. This rule is necessary to provide a measure of accountability for the Surplus Line Association of Utah and how this line of insurance is sold in the state. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	05/21/2024
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R590-230	Filing ID:	55861
Effective Date:	05/21/2024		

Agency Information

1. Title catchline:	Insurance, Administration	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state	Taylorsville, UT	
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:
R590-230. Suitability in Annuity Transactions
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, the Insurance Code.
Section 31A-22-425 authorizes the insurance commissioner to write rules dealing with definitions, disclosures, exclusions, or limitations in an annuity contract.
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) received one written comment about this rule in the past five years. The comment was the result of a proposed amendment the Department filed in 2023 and was in support of the amendment.

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 critical that this rule continue in force so producers and insurers have standards and procedures to follow when making financial recommendations to consumers who are considering the purchase of an annuity product. These recommendations require that the insurance needs and financial objectives of the consumer must be taken into account at the time of the transaction. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	05/21/2024
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	R698-5	Filing ID: 51859
Effective Date:	05/29/2024	

Agency Information

1. Title catchline:	Public Safety, Administration	
Building:	Calvin Rampton Complex	
Street address:	4501 S 2700 W, 1st Floor	
City, state	Salt Lake City, UT 84119-5994	
Mailing address:	PO Box 141775	
City, state and zip:	Salt Lake City, UT 84114-1775	
Contact persons:		
Name:	Phone:	Email:
Kim Gibb	801-556-8198	kgibb@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R698-5. State Hazardous Chemical Emergency Response Commission Advisory Committee
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized under Subsection 53-2a-702(2), which requires the Department of Public Safety to make rules necessary for the implementation of the federal Emergency Planning and Community Right To Know Act of 1986.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments were received during and 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:

This rule is authorized under Subsection 53-2a-702(2), in connection with implementation of the federal Emergency Planning and Community Right To Know Act of 1986. This rule establishes the State Hazardous Chemical Emergency Response Commission Advisory Committee, outlines procedures for the creation, modification or dissolution of a Local Emergency Planning Committee, and outlines the procedures for adjudicative proceedings. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Jess L. Anderson, Commissioner	Date:	05/29/2024
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	R704-1	Filing ID: 51857
Effective Date:	05/29/2024	

Agency Information

1. Title catchline:	Public Safety, Emergency Management	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state	Taylorsville, UT	
Contact persons:		
Name:	Phone:	Email:
Kim Gibb	801-556-8198	kgibb@utah.gov
Janna Wilkinson	385-214-5857	jannawilkinson@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R704-1. Search and Rescue Financial Assistance 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 under Subsection 53-2a-1102(7), which requires the Division of Emergency Management to make rules for the administration of the Search and Rescue Financial Assistance Program and the assistance card program.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments were received during and 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:

This rule is required under Subsection 53-2a-1102(7), and is necessary to specify costs that qualify as reimbursable base expenses; define procedures of counties to submit expenses and be reimbursed; define a participant in the assistance card program; define the procedure for issuing a card to a participant; define excluded expenses that may not be reimbursed under the program, including medical expenses; establish the card renewal cycle for the Utah Search and Rescue Assistance Card Program; establish the frequency of review of the fee schedule; provide for the administration of the program; and provide a formula to govern the distribution of available money among the counties for uncompensated search and rescue expenses. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Kris Hamlet, Division Director	Date:	05/29/2024
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R714-600	Filing ID:	51935
Effective Date:	05/29/2024		

Agency Information

1. Title catchline:	Public Safety, Highway Patrol
Building:	Calvin Rampton Complex
Street address:	4501 S 2700 W
City, state	Salt Lake City, UT 84119-5994
Mailing address:	PO Box 141100

City, state and zip:	Salt Lake City, UT 84114-1100
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Contact persons:

Name:	Phone:	Email:
Kim Gibb	801-556-8198	kgibb@utah.gov

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

General Information

2. Rule catchline:

R714-600. Performance Standards for Tow Truck Motor Carriers

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

This rule is authorized under Subsection 41-6a-1406(1), which requires the Department of Public Safety (Department) to make rules setting the performance standards for towing companies to be used by the Department.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department has not received any comments 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:

This rule is required under Subsection 41-6a-1406(10), which requires the Department to make rules setting the performance standards for towing companies to be used by the Department. This rule establishes standards for the dispatch of a tow truck, the creation and maintenance of a towing rotation list, and dispatch of tow truck motor carriers by the Department. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Michael Rapich, Colonel Utah Highway Patrol	Date:	05/29/2024
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End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Agriculture and Food

Medical Cannabis and Industrial Hemp

No. 56367 (New Rule) R66-3: Quality Assurance Testing on Cannabis

Published: 04/15/2024

Effective: 05/28/2024

No. 56433 (New Rule) R66-36: Transport of Transportable Industrial Hemp Concentrate

Published: 05/01/2024

Effective: 06/11/2024

Plant Industry

No. 56366 (Repeal) R68-29: Quality Assurance Testing on Cannabis

Published: 04/15/2024

Effective: 05/28/2024

Education

Administration

No. 56422 (Amendment) R277-108: Annual Assurance of Compliance by Local School Boards

Published: 05/01/2024

Effective: 06/07/2024

No. 56423 (Amendment) R277-404: Requirements for Assessments of Student Achievement

Published: 05/01/2024

Effective: 06/07/2024

No. 56424 (Amendment) R277-406: Early Learning Program and Assessments

Published: 05/01/2024

Effective: 06/07/2024

No. 56425 (Amendment) R277-462: School Counseling Program

Published: 05/01/2024

Effective: 06/07/2024

No. 56426 (Amendment) R277-464: School Counselor Direct and Indirect Services

Published: 05/01/2024

Effective: 06/07/2024

No. 56427 (New Rule) R277-631: Student Toilet Training Requirements

Published: 05/01/2024

Effective: 06/07/2024

No. 56428 (Amendment) R277-700: The Elementary and Secondary School General Core

Published: 05/01/2024

Effective: 06/07/2024

Environmental Quality

Waste Management and Radiation Control, Radiation

No. 56419 (Amendment) R313-28: Definitions

Published: 05/01/2024

Effective: 06/17/2024

Waste Management and Radiation Control, Waste Management

No. 56420 (Amendment) R315-309: Financial Assurance

Published: 05/01/2024

Effective: 06/17/2024

No. 56421 (Amendment) R315-310: Permit Requirements for Solid Waste Facilities

Published: 05/01/2024

Effective: 06/17/2024

Government Operations

Records Committee

No. 56410 (Amendment) R35-1: State Records Committee

Appeal Hearing Procedures

Published: 05/01/2024

Effective: 06/18/2024

NOTICES OF RULE EFFECTIVE DATES

Health and Human Services

Population Health, Environmental Epidemiology
Disease Rule
No. 56384 (Amendment) R386-702: Communicable
Published: 04/01/2024
Effective: 05/29/2024

Insurance

Administration
No. 56414 (Amendment) R590-190: Standards for Prompt,
Fair, and Equitable Settlement for Automobile Insurance
Published: 05/01/2024
Effective: 06/07/2024

No. 56415 (Amendment) R590-200: Diabetes Treatment
and Management
Published: 05/01/2024
Effective: 06/07/2024

No. 56417 (Amendment) R590-230: Producer Training
Published: 05/01/2024
Effective: 06/07/2024

Title and Escrow Commission

No. 56416 (Amendment) R592-6: Unfair Inducements and
Marketing Practices in Obtaining Title Insurance Business
Published: 05/01/2024
Effective: 06/07/2024

Judicial Performance Evaluation Commission

Administration
No. 56394 (New Rule) R597-7: General Provisions
Published: 04/15/2024
Effective: 06/13/2024

Labor Commission

Boiler, Elevator and Coal Mine Safety
No. 56396 (Amendment) R616-2: Safety Codes and Rules
for Boilers and Pressure Vessels
Published: 04/15/2024
Effective: 05/22/2024

Lieutenant Governor

Administration
No. 56403 (New Rule) R622-3: Use of the Great Seal of
the State of Utah
Published: 04/15/2024
Effective: 05/31/2024

End of the Notices of Rule Effective Dates Section