

# UTAH STATE BULLETIN

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

Number 2024-17  
September 01, 2024

Nancy L. Lancaster, Managing Editor

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

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

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

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

Office of Administrative Rules, Salt Lake City 84114

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

Utah state bulletin.

Semimonthly.

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

KFU440.A73S7

348.792'025--DDC

85-643197

# TABLE OF CONTENTS

---

<b>EXECUTIVE DOCUMENTS .....</b>	<b>1</b>
<b>2024-01</b>	
Declaring a State of Emergency Due to Flooding .....	2
<b>NOTICES OF PROPOSED RULES .....</b>	<b>3</b>
GOVERNMENT OPERATIONS, DEBT COLLECTION	
R21-1. Transfer of Collection Responsibility of State Agencies .....	4
GOVERNMENT OPERATIONS, FLEET OPERATIONS	
R27-3. Vehicle Use Standards .....	9
AGRICULTURE AND FOOD, ANIMAL INDUSTRY	
R58-11. Slaughter of Livestock and Poultry .....	14
AGRICULTURE AND FOOD, MEDICAL CANNABIS AND INDUSTRIAL HEMP	
R66-2. Cannabis Processing.....	22
R66-3. Quality Assurance Testing on Cannabis .....	34
EDUCATION, ADMINISTRATION	
R277-110. Educator Salary Adjustment .....	46
R277-124. Teacher Bonuses for Extra Assignments.....	49
R277-304. Teacher Preparation Programs.....	52
R277-321. Paraeducator to Teacher Scholarship Program .....	60
R277-324. Paraprofessional/Paraeducator Programs, Assignments, and Qualifications .....	63
R277-327. School Leadership Development Grant .....	67
R277-331. Stipends for Future Educators.....	71
R277-443. Distribution of Money to Science Outreach Organizations.....	73
R277-444. Distribution of Money to Arts and Science Organizations .....	79
R277-464. School Counselor Direct and Indirect Services.....	85
R277-477. Distributions of Funds from the Trust Distribution Account and Administration of the School LAND Trust Program .....	89
R277-479. Funding for Charter School Students With Disabilities on an IEP .....	97
R277-482. LEA Work Email Communication Requirements .....	101
R277-495. Electronic Devices in Public Schools .....	104
R277-600. Student Transportation Standards and Procedures .....	108
R277-613. LEA Policies and Training Regarding Bullying, Cyber-bullying, Hazing, Retaliation, and Abusive Conduct.....	116

TABLE OF CONTENTS

R277-625. Mental Health Screeners ..... 123

R277-630. Child Sex Abuse and Human Trafficking Prevention Training  
and Instruction ..... 127

R277-925. Effective Teachers in High Poverty Schools Incentive Program ..... 131

R277-933. Teaching Self-Government Skills for Success, Classroom  
Communication, and Discipline Framework Pilot Program ..... 135

ENVIRONMENTAL QUALITY, AIR QUALITY

R307-101. General Requirements ..... 138

GOVERNOR, CRIMINAL AND JUVENILE JUSTICE (STATE COMMISSION ON)

R356-6. Electronic Meetings ..... 148

HEALTH AND HUMAN SERVICES, CHILDREN'S HEALTH INSURANCE PROGRAM

R382-11. State Children's Health Insurance Program ..... 151

HEALTH AND HUMAN SERVICES, INTEGRATED HEALTHCARE

R414-1-6. Services Available ..... 154

R414-49. Dental, Oral, and Maxillofacial Surgeons and Orthodontia ..... 157

R414-308-6. Eligibility Period and Reviews ..... 164

HEALTH AND HUMAN SERVICES, HEALTH CARE FACILITY LICENSING

R432-100. General Hospital Standards ..... 168

HEALTH AND HUMAN SERVICES, SUBSTANCE ABUSE AND MENTAL HEALTH, STATE HOSPITAL

R525-8. Forensic Mental Health Facility ..... 187

NATURAL RESOURCES, FORESTRY, FIRE AND STATE LANDS

R652-21. Great Salt Lake Mineral Extraction..... 190

NATURAL RESOURCES, WILDLIFE RESOURCES

R657-54a. Taking Wild Turkey ..... 209

R657-68a. Trial Hunting Authorization ..... 215

PARDONS (BOARD OF), ADMINISTRATION

R671-103. Attorneys..... 219

R671-104. Language Access ..... 221

R671-309. Impartial Hearings ..... 224

R671-403. Restitution..... 227

R671-513. Expedited Determination of Parolee Challenge to  
Probable Cause..... 232

WORKFORCE SERVICES, EMPLOYMENT DEVELOPMENT

R986-700. Child Care Assistance ..... 234

**NOTICES OF 120-DAY (EMERGENCY) RULES..... 246**

NATURAL RESOURCES, WILDLIFE RESOURCES

R657-54a. Taking Wild Turkey ..... 246

R657-68a. Trial Hunting Authorization .....252

**FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION .....256**

COMMERCE, ADMINISTRATION

    R151-1. Department of Commerce General Provisions.....256

COMMERCE, PROFESSIONAL LICENSING

    R156-17b. Pharmacy Practice Act Rule .....257

EDUCATION, ADMINISTRATION

    R277-114. Response to Compliance and Related Issues.....259

    R277-473. Utah Computer Science Grant .....260

    R277-929. State Council on Military Children .....260

HEALTH AND HUMAN SERVICES, POPULATION HEALTH, ENVIRONMENTAL EPIDEMIOLOGY

    R386-80. Local Public Health Emergency Funding Protocols .....261

HEALTH AND HUMAN SERVICES, INTEGRATED HEALTHCARE

    R414-71. Early and Periodic Screening, Diagnostic, and  
    Treatment Program.....262

    R414-312. Adult Expansion Medicaid .....263

HEALTH AND HUMAN SERVICES, RECOVERY SERVICES

    R527-40. Retained Support.....264

INSURANCE, ADMINISTRATION

    R590-67. Proxy, Consent, and Authorization of a Domestic  
    Stock Insurer .....265

    R590-79. Life Insurance Disclosure Rule.....266

    R590-83. Unfair Discrimination on the Basis of Gender or  
    Marital Status.....267

    R590-127. Rate Filing Exemptions.....268

    R590-129. Unfair Discrimination Based Solely Upon Blindness  
    or Physical or Mental Impairment.....269

    R590-167. Individual, Small Employer, and Group Health Benefit  
    Plan Rule .....270

    R590-194. Coverage of Dietary Products for Inborn Errors of Amino  
    Acid or Urea Cycle Metabolism .....271

    R590-229. Annuity Disclosure .....271

    R590-277. Managed Care Health Benefit Plan Policy Standards.....272

PARDONS (BOARD OF), ADMINISTRATION

    R671-103. Attorneys.....273

    R671-309. Impartial Hearings .....274

TABLE OF CONTENTS

PUBLIC SAFETY, HIGHWAY PATROL  
R714-500. Chemical Analysis Standards and Training .....275

PUBLIC SAFETY, PEACE OFFICER STANDARDS AND TRAINING  
R728-205. Council Resolution of Public Safety Retirement Eligibility.....276

HIGHER EDUCATION (UTAH BOARD OF), SALT LAKE COMMUNITY COLLEGE  
R784-2. Free Expression on Campus.....277  
R784-3. Weapons on Campus .....278  
R784-4. Student Due Process.....279

WORKFORCE SERVICES, HOUSING AND COMMUNITY DEVELOPMENT  
R990-300. Review Process for Plan for Moderate Income  
Housing Reports.....279

**NOTICES OF FIVE-YEAR EXPIRATIONS .....281**

NATURAL RESOURCES, WILDLIFE RESOURCES  
R657-54. Taking Wild Turkey .....281  
R657-68. Trial Hunting Authorization.....282

**NOTICES OF RULE EFFECTIVE DATES .....283**

## EXECUTIVE DOCUMENTS

---

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

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

---

**EXECUTIVE ORDER  
2024-01**

Declaring a State of Emergency Due to Flooding

**WHEREAS**, damaging flood events have recently impacted many communities throughout the State of Utah;

**WHEREAS**, there has been significant damage to homes and public infrastructure;

**WHEREAS**, wildfire burn scars and high temperatures have contributed to hardened ground surfaces, increasing flash flood and debris flow risk;

**WHEREAS**, storm impacts such as flash flooding and debris flows are a threat to public safety;

**WHEREAS**, the potential for future and additional flooding throughout the state still exists;

**WHEREAS**, declaring a state of emergency will facilitate the protection of persons and property from the impacts of flooding and potential flooding and expedite the use of state resources, as well as support requests for federal and interstate resources, if required;

**WHEREAS**, the declaration of emergency will also permit the State of Utah to request and receive mutual aid assistance from other states through the Emergency Management Assistance Compact, if required;

**WHEREAS**, Utah Code § 53-2a-204(1)(a) authorizes the governor to utilize all available resources of state government as reasonably necessary to cope with a state of emergency;

**WHEREAS**, these conditions meet the definition of a state of emergency described in the Disaster Response and Recovery Act, specifically in Utah Code § 53-2a-206(1); and

**WHEREAS**, Utah Code § 53-2a-206(1) authorizes the governor to declare a state of emergency by executive order;

**NOW, THEREFORE**, I, Spencer J. Cox, governor of the state of Utah, by the authority vested in me by the Constitution and laws of this state, hereby declare a state of emergency in the state due to the aforesaid circumstances.

**THIS ORDER** is effective immediately and shall remain in effect for 30 days, unless the legislature extends the state of emergency.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done on this, the 23rd day of August, 2024.

(State Seal)

Spencer J. Cox  
Governor, State of Utah

ATTEST:

Deidre M. Henderson  
Lieutenant Governor, State of Utah

**End of the Executive Documents Section**



## NOTICES OF PROPOSED RULES

---

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between August 02, 2024, 12:00 a.m., and August 15, 2024, 11:59 p.m. are included in this, the September 01, 2024, issue of the *Utah State Bulletin*.

In this publication, each **PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **PROPOSED RULE** is usually printed. New rules or additions made to existing rules are underlined (example). Deletions made to existing rules are struck out with brackets surrounding them (~~example~~). Rules being repealed are completely struck out. A row of dots in the text between paragraphs (. . . . .) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not usually printed. If a **PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of each rule that is too long to print is available from the filing agency or from the Office of Administrative Rules.

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least October 01, 2024. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through December 30, 2024, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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

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

---

**The Proposed Rules Begin on the Following Page**

**NOTICE OF SUBSTANTIVE CHANGE**

**TYPE OF FILING:** Amendment

**Rule or Section Number:**

**R21-1**

**Filing ID: 56737**

**Agency Information**

<b>1. Title catchline:</b>	Government Operations, Debt Collection	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S 2700 W, FL 1	
<b>City, state:</b>	Taylorsville, UT	
<b>Mailing address:</b>	PO Box 141001	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1001	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Paul Bowers	385-321-2131	paulb@utah.gov
Van Christensen	801-808-0698	vhchristensen@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R21-1. Transfer of Collection Responsibility of State Agencies
<b>3. Purpose of the new rule or reason for the change:</b>
The purposes of this change are to update certain parts of the rule to reflect current practices, to modify other parts that are currently somewhat hard to understand or contradictory, make some language more clear, make small grammatical corrections, and to add a new subsection that the Office of State Debt Collection (OSDC) is required to put into rule.
<b>4. Summary of the new rule or change:</b>
A section about collection techniques was added to document the techniques that OSDC uses currently.  The Cost of Collection section was split into two sections: Interest and Fees and Applying Interest and Fees.  Grammatical and formatting changes were also made to comply with the Rulewriting Manual for Utah. These changes will help dispel any confusion that the current reading of the rule may cause, as well as fulfill OSDC's obligation to create rules regarding certain processes.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This proposed rule change is not anticipated to have a fiscal impact on the state's budget. This rule change clarifies pre-existing operations and will not change any fees or interest charged.  Similarly, there are no identified savings as a result of this rule change for the same reasons.
<b>B) Local governments:</b>
This proposed rule change is not anticipated to have a fiscal impact on local governments.

OSDC does not charge fees for its services to any government entities, and the proposed changes in this rule are clerical and have to do with formatting and style.

Therefore, none of the changes being proposed will provide any additional costs or savings to local governments.

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

This proposed rule change is not anticipated to have a fiscal impact on small businesses because small businesses cannot refer debts to OSDC so this rule does not apply to small businesses.

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

This proposed rule change is not anticipated to have a fiscal impact on non-small businesses because non-small businesses cannot refer debts to OSDC so 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 proposed rule change is not anticipated to have a fiscal impact on other persons because they cannot refer debts to OSDC so this rule does not apply to them.

**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 is not expected to create a compliance cost for any person. This rule change clarifies pre-existing operations and will not change any fees or interest charged.

**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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Executive Director of the Department of Government Operations, Marvin Dodge, has reviewed and approved this regulatory impact analysis.

**Citation Information**

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

Section 63A-3-504		
-------------------	--	--

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	10/01/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	10/08/2024
---	------------

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Van Christensen, Division Director	<b>Date:</b>	08/14/2024
---	------------------------------------	--------------	------------

**R21. Government Operations, Debt Collection.**

**R21-1. Transfer of Collection Responsibility of State Agencies.**

**R21-1-1. Purpose.**

The purpose of this rule is to establish ~~the procedures by which agencies shall:~~

~~(1) collection techniques used by OSDC; and~~

~~(2) procedures for agencies to:~~

~~(1) a) bill and make initial collection efforts according to a coordinated schedule;~~

~~(2) b) transfer their delinquent accounts receivable to OSDC ~~or its designee~~ for additional collection action;~~

~~(3) c) write-off ~~of~~ receivables; and~~

~~(4) d) allocate the costs of collection established ~~pursuant to~~ under Subsections 63A-3-502(4)(g), 63A-3-502(6)(b), Section 15-1-4, and other applicable laws.~~

**R21-1-2. Authority.**

This rule is established ~~pursuant to~~ under Section 63A-3-504.

**R21-1-3. Definitions.**

~~In addition to terms defined in Section 63A-3-501, the following terms are defined as follows:~~

~~(1) "Delinquent" means any account receivable for which the state has not received payment in full by the payment demand date.~~

~~(2) "Designee" means a Private Sector Collector or State Agency that the Office of State Debt Collection has contracted with to provide accounts receivable collection services.~~

~~(3) "FINET" means the statewide accounting system centrally administered by the Division of Finance.~~

~~(4) "Payment demand date" is the date by which the agency requires payment for the account receivable that an entity has incurred.~~

~~(5) "Skipped" means that the entity formerly transacting business with the state is not known at the address or telephone number previously used nor is any new address or telephone number known of the entity.~~

~~(6) "Event" includes the day the goods are purchased, services completed, fines, fees, and assessments are due.~~

~~(7) "OSDC" means the Office of State Debt Collection.~~

~~(8) "Trust" means a receivable that is owed to a victim of a crime. (1) "Accounts receivable" or "receivable" means the same as defined in Section 63A-3-501.~~

~~(2) "Administrative offset" means the same as defined in Section 63A-3-501.~~

~~(3) "Criminal accounts receivable" means the same as defined in Section 63A-3-501.~~

~~(4) "Delinquent" means any account receivable for which the state has not received payment in full by the payment due date.~~

~~(5) "Event" means the day that goods are purchased, services are completed, or fines, fees, and assessments are due.~~

~~(6) "FINET" means the statewide accounting system centrally administered by the Division of Finance.~~

~~(7) "OSDC" means the Office of State Debt Collection, created under Section 63A-3-502.~~

~~(8) "Payment due date" means the date by which the agency requires payment for the account receivable that an individual, corporation, partnership, or organization has incurred.~~

~~(9) "Postjudgment interest" means interest that is accrued according to the rate described in Subsection 15-1-4(3)(a).~~

~~(10) "Trust" means a receivable that is owed to a victim of a crime.~~

~~(11) "Write-off" means the same as defined in Section 63A-3-501.~~

**R21-1-4. Agency Billing and Collection Responsibility.**

~~(1) ~~Agencies~~ Each agency shall document and track agency ~~each~~ receivable[s] ~~on~~ in FINET.~~

~~(a) An agency may ~~apply to the Division of Finance and OSDC for~~ request an exemption ~~to this subsection~~ from using FINET from the Division of Finance and OSDC.~~

~~(b) An agency exempted under this section shall:~~

~~(i) track ~~each~~ receivable[s] ~~on~~ in the agency's system;~~

- (ii) provide ~~the~~ OSDC with a quarterly receivable report[s] ~~[pursuant to]~~ each month that contains the information described in Subsection 63A-3-502(7)(g); and
- (iii) provide each receivable report[s] ~~[to OSDC no later than]~~ within 45 days after the ~~[end of the]~~ quarter ends.
- (2) ~~[Customers]~~ A customer shall be billed:
  - ~~(a)~~ within 10 days from the event ~~[creating]~~ that created the receivable; or
  - ~~(b)~~ ~~[the next billing cycle,]~~ if the event is ~~[reoccurring]~~ recurring, within the next billing cycle.
- (3) The payment ~~[demand]~~ due date shall be ~~[no later than]~~ within 30 days ~~[from]~~ of the event date unless the agency can ~~[demonstrate the 30 day demand date is not appropriate for the agency's business processes]~~ show that this timeframe does not meet its business needs.
- (4) ~~[Agencies shall contact customers for payment by phone or written notice when]~~ If payment is not received within 10 days after the payment ~~[demand]~~ due date, the agency shall contact the customer for payment by phone or written notice.
- (5) ~~[Agencies]~~ Each agency shall review and comply with the statewide accounting ~~[FIACCT-06]~~ policies for receivables, which are available on the Division of Finance website, finance.utah.gov.

**R21-1-5. Transfer of Collection Responsibility.**

- (1) ~~[Each]~~ An agency with any delinquent account[s] shall comply with Subsection 63A-3-502(7) unless ~~[prohibited]~~ not allowed by current state or federal statute or regulation.
- (2) An agency or user of services shall transfer collection responsibility to OSDC ~~[, or its designee, when]~~ if the account receivable:
  - ~~(a)~~ is not paid within 90 days of the initial billing; or
  - ~~(b)~~ is delinquent 61 days.
- (3) An agency may negotiate a different receivable transfer date with OSDC by ~~[demonstrating]~~ explaining how the state would benefit[s] from the negotiated transfer date.

**R21-1-6. Format for Transfer of Accounts Receivable Data.**

- (1) ~~[Agencies]~~ An agency shall transfer any delinquent account[s] to OSDC ~~[, or its designee]~~ electronically through FINET.
- (2) ~~[Agencies]~~ An agency exempted from using FINET for individual receivables shall work with OSDC to generate an electronic placement file for transferring the delinquent account[s].
- (3) ~~[Debts owed by business entities must be transferred by agencies with:]~~ An agency transferring a delinquent account must also provide:
  - (a) ~~[a list of positively identified]~~ personally identifiable information for each liable ~~[parties]~~ party; and
  - (b) ~~[if available, a]~~ federal tax identification number for each liable party.

**R21-1-7. ~~[Costs of Collection]~~ Interest and Fees.**

- ~~[The fee calculation and payment priority for accounts receivable collected by OSDC shall be applied according to the following methodology:]~~
- (1) ~~[Except as specified in Section R21-1-10, pursuant to Subsection 63A-3-502(4)(g)(i):]~~ Subsection 63A-3-502(4)(g) authorizes OSDC to assess and collect interest and fees. Interest and fee calculation and payment priority for accounts receivable collected by OSDC shall be applied according to the following methodology, except as specified in Subsections R21-1-10(2) and R21-1-10(3):
  - ~~[(a) the costs of collection shall be charged on all accounts referred for collection;]~~ (2) A fee that covers the administrative costs of collection shall be charged on each account referred for collection. This fee is called the collection fee.
  - ~~[(b)a] [†]The cost of this fee shall be calculated [based on the dollars collected times the rate authorized by the legislature; and] as a percent of the sum of the receivable balance referred for collection plus the late penalty described in Subsection R21-1-7(3).~~
  - ~~[(e)b] [the cost of collection]~~ This fee shall be paid first from each payment, up to a percentage determined by OSDC.
  - (c) The collection fee accrues on the unpaid principal balance of the receivable.
  - ~~[(2)3] [The Penalty]~~ A late penalty fee as described in Subsection 63A-3-502(4)(g)(ii) shall be calculated as a percent of the receivable balance referred for collection.
    - (a) Two percent of each payment shall be applied to the outstanding penalty until the penalty is paid in full.
    - ~~[(b) The penalty payment shall be calculated up to the authorized penalty percent set annually by the legislature, times the received payment amount.]~~
    - ~~[(e)b]~~ The calculated penalty amount shall be paid after the ~~[costs of]~~ collection fee ~~[are]~~ is determined and paid.
    - ~~[(3)4]~~ Two types of interest shall be charged on each account ~~[accounts]~~ referred to OSDC: postjudgment interest and OSDC interest.
      - (a) Postjudgment interest ~~[as established by Section 15-1-4]~~ applies to ~~[receivables]~~ a receivable with ~~[judgments]~~ a judgment established by the courts ~~[with a sentencing date after May 5, 1999].~~
        - (i) Postjudgment interest accrues on the unpaid ~~[judgment]~~ principal balance of the receivable.
        - (ii) Postjudgment interest that accrues on a trust~~[s]~~ or the trust portion of a receivable~~[s]~~ shall be paid ~~[after]~~ before the state's outstanding receivable.
      - ~~[(b) [Other receivables referred to OSDC are charged an interest rate pursuant to Subsection 63A-3-502(4)(g)(iii)(B), referred to as OSDC interest.]~~ OSDC interest applies to a receivable without a judgment as described in Subsection 63A-3-502(4)(g)(iii)(B).
        - (i) OSDC accrued interest shall be paid from each payment up to 5% of the payment after the payment of the ~~[costs of]~~ collection fee and 2% penalty.
        - ~~[(ii) [OSDC accrued interest shall be paid pursuant to Subsection R21-1-7(4) on trust receivables or receivables including a trust account.]~~ OSDC interest accrues on the unpaid principal balance of the receivable.

**R21-1-8. Applying Interest and Fees.**

(4)1 Each payment received on a trust receivable[s] shall be applied to the following items in the priority listed[~~until the payment is fully disbursed~~]:

- (a) First, the[~~cost of~~] collection fee, up to a percentage determined by OSDC;
- (b) Second, 2% penalty;
- (c) Third, the trust receivable principal balance up to the total amount of the receivable; and
- (d) Fourth, the accrued post[-]judg[e]ment interest.

(5)2 Each payment received on a receivable[s] that includes trust and state receivable balances shall be applied to the following items in the priority listed[~~until the payment is fully disbursed~~]:

- (a) First, the[~~cost of~~] collection fee, up to a percentage determined by OSDC;
- (b) Second, 2% penalty;
- (c) Third, [the trusts receivable balance until paid in full]5% OSDC interest when applicable;
- (d) Fourth, [the accrued trust post judgement interest]the trusts receivable balance until paid in full;
- (e) Fifth, [the state receivable balance; and]the accrued trust postjudgment interest;
- (f) Sixth, [accrued post judgement or OSDC interest on]the state receivable balance[-]; and
- (g) Seventh, accrued postjudgment interest on the state receivable balance.

(6)3 Each payment received on a receivable[s] owed only to the state shall be applied to the following items in the priority listed[~~until the payment is fully disbursed~~]:

- (a) First, the[~~cost of~~] collection fee, up to a percentage determined by OSDC;
- (b) Second, 2% penalty[~~payment~~];
- (c) Third, [the receivable balance; and]5% OSDC interest when applicable;
- (d) Fourth, [5% accrued post judgement or OSDC interest.]the principal receivable balance; and
- (e) Fifth, accrued postjudgment interest when applicable.

(7)4(a) [Trust Payments]A trust payment sent to [victims]a victim of [crimes]a crime that [are]is returned to OSDC because of a bad address[es,] shall be retained by OSDC[.] until the victim is located or statute requires transfer to another agency.

(b) [Payments]Each payment shall continue to be applied to the trust balance until [liquidated]it is paid in full, and [there after applied to other applicable debts]any payment received after the trust is paid in full shall be applied to another applicable debt.

**R21-1-8)9. Write-Off of Accounts Receivable.**

[Agencies]Each agency shall follow the statewide [A]accounting [P]policies and [P]procedures [outlined in FIACCT 06-01-14 and 06-02-04,]for write-offs and allowances, which are available [from the state]on the Division of Finance [at]website, finance.utah.gov.

**R21-1-9)10. Original Signature Required on Certain OSDC Documents.**

[An original signature is required by OSDC on the following documents]OSDC requires an original signature on:

- (1) a [W]victim [S]settlement [A]agreement;
- (2) [Debt Repayment Contract Agreement]a payment agreement;
- (3) a [W]wage [A]assignment[s to pay debts];
- (4) an [A]authority for the automatic transfer of funds (EFT)[~~to pay debts~~]; and
- (5) an [A]authority for the automatic [C]credit or [D]debit [C]card charge[~~to pay debts~~].

**R21-1-10)11. Delay and Remission of Fees and Penalties.**

- (1) OSDC [shall]may create policies for [remitting]reducing fees and penalties to incentivize payment of debts.
- (2) When OSDC receives a criminal account receivable for an offender who is incarcerated for the same criminal offense, OSDC may not apply [fees or penalties for]a collection fee or penalty to the receivable until 90 days after the debtor is released from prison.
- (3) When a debt is for a dishonored check as described in Section 7-15-1, fees and interest shall be assessed in accordance with that section.

**R21-1-12. Collection Techniques.**

OSDC may use different collection techniques which may include the use of:

- (1) credit-reporting bureaus;
- (2) collection agencies;
- (3) garnishments;
- (4) liens;
- (5) executions on any type of property;
- (6) judgments; and
- (7) administrative offsets.

**KEY: accounts receivable, collection transfer**

**Date of Last Change: 2024[June 13, 2022]**

**Notice of Continuation: March 10, 2022**

**Authorizing, and Implemented or Interpreted Law: 63A-3-502(3)(m); 63A-3-502(4)(g); 63A-3-502(6)(a); 63A-3-502(6)(b); 63A-3-502(7)(f); 15-1-4**

**NOTICE OF SUBSTANTIVE CHANGE**

**TYPE OF FILING:** Amendment

**Rule or Section Number:**

**R27-3**

**Filing ID: 56697**

**Agency Information**

<b>1. Title catchline:</b>	Government Operations, Fleet Operations	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S 2700 W, 3rd Floor	
<b>City, state:</b>	Taylorsville, UT 84129	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Cory Weeks	801-957-7261	coryweeks@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R27-3. Vehicle Use Standards
<b>3. Purpose of the new rule or reason for the change:</b>
The intent of this change is to reduce administrative burdens on state employees and will also align language with IRS terminology.
<b>4. Summary of the new rule or change:</b>
This change contains technical changes to align with IRS guidelines. It also removes from required approval and reporting groups of drivers that already are authorized by statute and are within the IRS exemption guidelines.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
These changes will save man-hours for state employees, allowing fleet customer agencies to focus the time of their staff on other items.  This change will not have a fiscal impact but will allow for a shifting of resources.
<b>B) Local governments:</b>
No impact. This rule does not apply to local governments.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
No impact. This rule does not apply to small businesses.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>
No impact. This rule does not apply to non-small businesses.
<b>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 <i>agency</i>):</b>
No impact. This rule only applies to state employees.

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

The change reduces state employee time on compliance by eliminating compliance elements.

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

**Regulatory Impact Table**

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

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

The Executive Director of the Department of Government Operations, Marvin Dodge, has reviewed and approved this regulatory impact analysis.

**Citation Information**

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

Subsection 63A-9-401(1)(d)

**Public Notice Information**

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

**A) Comments will be accepted until:** 10/01/2024

**9. This rule change MAY become effective on:** 10/08/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Cory Weeks, Director Division	<b>Date:</b>	08/01/2024
---	-------------------------------	--------------	------------

**R27. Government Operations, Fleet Operations.**

**R27-3. Vehicle Use Standards.**

**R27-3-1. Authority and Purpose.**

(1) This rule is established pursuant to Subsection 63A-9-401(1)(d), which authorizes the division to establish the requirements for the use of state vehicles, including business and personal use practices, and commute standards.

(2) This rule defines the vehicle use standards for state employees while operating a state vehicle.



**R27-3-2. Agency Contact.**

~~(1)~~ Each agency shall appoint and designate, in writing to the division, a main contact person from within the agency to act as a liaison between the division and the agency.

**R27-3-3. Agency Authorization of Drivers.**

(1) Agencies authorized to enter information into the division's fleet information system shall enter the agency's authorized driver information into the division's fleet information system, to include the following:

- (a) driver's name;
- (b) driver license number;
- (c) state that issued the driver license;
- (d) each Risk Management-approved driver training program taken;
- (e) date each driver training program was completed;
- (f) the type of vehicle used for each training program.

(2) Agencies without authorization to enter information into the division's fleet information system shall provide the information required in Subsection R27-3-3(1) to the division for entry into the division's fleet information system.

(3) Any employee whose fleet information system record does not have all the information required in Subsection R27-3-3(1) shall be deemed unauthorized to drive state vehicles.

(4) To operate a state vehicle, authorized drivers whose names have been entered into the division's fleet information system shall have:

- (a) a valid driver license for the class of vehicle being operated; and
- (b) completed an approved driver training course as required by the Division of Risk Management for the class of vehicle being operated.

(5) Agencies shall develop and establish procedures to prevent driving for business by any employee that does not meet the qualifications of an authorized driver as defined in this rule.

(6) The division shall conduct a Utah driver license verification check on a regular basis to verify the validity of the driver license of each authorized driver whose name appears in the division's fleet information system. The agency is responsible for verifying the license of an authorized driver with a driver license issued outside of Utah.

(7) If an authorized driver is found not to have a valid driver license, the division shall notify the agency within three business days of the results of the driver license verification check.

(8) Any employee whose driver license has become invalid shall have their authorized state vehicle driving privileges immediately withdrawn.

(9) Any authorized driver who has an invalid driver license ~~shall~~ may not have the authority to operate a state vehicle reinstated until the authorized driver provides proof to the division that their driver license is once again valid.

(10) Authorized drivers shall operate a state vehicle in accordance with the restrictions or limitations imposed upon their driver license.

(11) Agencies shall comply with the requirements set forth in Subsection R37-1-8(9).

(12) If an agency has only approved driving a non-road vehicle, the driver does not need to be an authorized driver under this rule.

**R27-3-4. Authorized and Unauthorized Use of State Vehicles.**

(1) Unless otherwise permitted by the agency's applicable statutes and policies, the following are examples of the unauthorized use of a state vehicle:

- (a) transporting family, friends, pets, associates, or other persons who are not state employees or are not serving the interests of the state;
- (b) transporting hitchhikers;
- (c) transporting acids, explosives, hazardous materials, flammable materials, weapons, or ammunition except as authorized by federal or state laws. Otherwise, the transport of these items or materials is authorized when it is specifically related to employment duties;
- (d) extending the length of time that the state vehicle is in the operator's possession beyond the time needed to complete the official purposes of the trip;
- (e) operating a state vehicle for personal use except as allowed by law;
- (f) except as necessary for the performance of employment duties, the use of a state vehicle for activities such as shopping, participating in sporting events, hunting, or fishing is not authorized; and
- (f) using a state vehicle for personal convenience, such as when a personal vehicle is not operational.

(2) Pursuant to Section R27-7-3, the unauthorized use of a state vehicle may result in the suspension or revocation of state driving privileges.

(3) Except in cases where it is customary to travel out of state to perform an employee's regular employment duties and responsibilities, the use of a state vehicle outside of the state shall be included in the description of out-of-state travel requests.

(4) State vehicle use for travel outside of the continental United States shall be included in the travel plan description and approval required for non-CONUS travel. The employing agency shall, before the departure date, provide the division and the Division of Risk Management with proof that proper automotive insurance has been obtained. The employing agency shall be responsible for any damage to vehicles operated outside of the United States regardless of fault.

(5) Under no circumstances shall the total number of occupants exceed the maximum number of passengers recommended by the manufacturer or the Division of Risk Management.

**R27-3-5. Personal Use Standards.**

(1) Except as described in this rule, personal use of state vehicles requires statutory authorization.

(2) Employees authorized for personal use of vehicles in statute must comply with 26 CFR 1.61-21 and agency policies established according to Section R27-3-9.

~~(2)~~<sup>(3)</sup> An employee or representative of the state spending at least one night on approved travel to conduct state business may use a state vehicle in the general vicinity of the overnight lodging for the following approved activities:

(a) travel to and from restaurants and stores for meals, breaks, and personal needs;

(b) travel to and from grooming, medical, fitness, or laundry facilities; and

(c) travel to and from recreational activities, such as to theaters, parks, or to the home of friends or relatives, provided the employee or representative has received prior approval for such travel from their supervisor.

**R27-3-6. Application for Commute ~~or Take-Home~~ Use.**

(1) Each petitioning agency shall be responsible for submitting names and applicable information to the division for authorized drivers granted commute or take-home privileges along with proof of the agency executive director's or designee's approval.

(2) Law enforcement officers who have received statutory personal use authorization of their law enforcement vehicles do not need to report to the division for approval.

~~(2)~~<sup>(3)</sup> The division shall enter the approved ~~commute or take-home use~~ request into the fleet information system and shall make the assigned identification number available to both the driver and the agency.

~~(3)~~<sup>(4)</sup> Agencies are responsible for notifying the division when adjustments to approvals need to be made, including terminations and reassignments.

**R27-3-7. Criteria for Commute and Personal ~~or Take-Home~~ Use Approval.**

(1) An agency executive director or designee may approve commute or take-home use when one or more of the following conditions exist:

(a) 24-hour On-call Emergency. When the agency clearly demonstrates that the nature of a potential emergency is such that an increase in response time, if a commute or take-home use privilege is not authorized, could endanger a human life or cause significant property damage. Each driver shall keep a complete list of callouts. The authorized driver shall create and maintain a trip log beginning with the first trip of the day and ending with the last trip of the day for commute use vehicles. The trip log must contain at least the starting and ending points of the commute;

(b) Virtual Office. When the agency clearly demonstrates that an employee is required to work out of a vehicle a minimum of 80% of the time and the assigned vehicle is required to perform the critical duties assigned to the employee;

(c) Practicality. When the agency clearly demonstrates that it is more practical for the employee to go directly to an alternate work site rather than report to a specific office to pick up a state vehicle;

(d) Compensation Vehicle. When a vehicle is provided to appointed or elected government officials who are specifically allowed by law to have an assigned vehicle as part of their compensation package.

**R27-3-8. Exemptions from IRS-Imputed Daily Fringe Benefits.**

(1) Commute ~~use is~~ and personal use of vehicles are considered a taxable fringe benefit as outlined in 26 CFR 1.61-21. Approved commute use drivers shall be assessed the IRS-imputed daily fringe benefit rate while using a state vehicle for commute or personal use. The division shall notify the Division of Finance of this authorization. The Division of Finance shall then enter the authorized driver's ~~commute~~ ]fringe benefit into the payroll system.

(2) The State standard for tracking and recording daily fringe benefits is established by the Division of Finance in policy.

(3) Tax e~~[E]~~xemptions ~~[from the Commuting Rule for take-home]~~for commuting or personal use must be in accordance with 26 CFR 1.61-21 and must be approved by the employing agency.

(4) Any agency ~~[with an exemption to the Commuting Rule]~~claiming an IRS exemption must maintain a file justifying the exemption and must be prepared to explain the agency's position in the case of an IRS audit.

**R27-3-9. Enforcement of Commute~~, Take-Home,~~ and Personal Use Standards.**

(1) Agencies with drivers who have been granted commute~~, take-home,~~ or personal use privileges shall establish internal policies to enforce the ~~commute, take-home, and personal use~~ standards established in this rule, in IRS internal revenue bulletins, and in 26 CFR 1.61-21. Agencies ~~shall~~ may not adopt policies that are less stringent than the standards established in this rule.

(2) Agencies are responsible for keeping appropriate records, including call out and trip logs where applicable.

(3) Commute~~, take-home,~~ or personal use that is unauthorized shall result in the suspension or revocation of the commute~~, take-home,~~ or personal use privilege by the agency. Additional instances of unauthorized ~~commute or take-home~~ use may result in the suspension or revocation of the state driving privilege by the agency.

**R27-3-10. Use Requirements for Monthly Lease Vehicles.**

(1) Agencies that lease state vehicles from the division on a monthly basis shall:

(a) ensure that only authorized drivers operate the vehicles;

(b) report the correct odometer reading when refueling the vehicle. If an incorrect odometer reading is reported, agencies may be assessed a fee when the agency fails to correct the mileage within three business days of the agency's receipt of the notification that the incorrect

mileage was reported. When circumstances indicate that there was an intentional falsification of the vehicle's actual odometer reading at the time of refueling, a fee may be assessed to the agency even if the agency corrected the error;

(c) return the vehicle to the division in good repair and in clean condition at the completion of the replacement cycle period or when the agency and the division have agreed to return the vehicle for replacement, reassignment, or reallocation;

(i) Agencies shall be assessed the total cost of the detailing fee for returned vehicles that need extensive cleaning; and

(ii) Agencies shall pay the insurance deductible associated with repairs made to a vehicle that has been damaged.

(d) return the vehicle unaltered and in conformance with the manufacturer's specifications with the exception of agencies whose jobs require altering of the vehicle. The agency and the division will come to a written agreement as to which alterations can be made to the division's vehicles;

(e) pay the applicable insurance deductible if a monthly lease vehicle in their possession or control is involved in an accident;

(f) not place advertising or bumper stickers on state vehicles without prior approval of the division.

(2) Section R27-4-9 shall govern agencies when requesting a monthly lease.

#### **R27-3-11. Use Requirements for Daily Motor Pool Vehicles.**

(1) The division, at select locations, offers state vehicles for use on a daily basis at an approved daily rental rate. Authorized drivers renting a state vehicle offered through the daily pool shall:

(a) read and obey any instructions provided by the division, containing information regarding the use and rental of the vehicle;

(b) verify the current condition of the rental vehicle and notify the division of any current damages and any damages that occur during the rental period;

(c) report the correct odometer reading when refueling the vehicle at authorized refueling sites, and when the vehicle is returned. If an incorrect odometer reading is reported, agencies may be assessed a fee when the agency fails to correct the mileage within three business days of the agency's receipt of the notification that the incorrect mileage was reported. When circumstances indicate that there was an intentional falsification of the vehicle's actual odometer reading at the time of refueling, a fee may be assessed to the agency even if the agency corrected the error;

(d) return vehicles with a full tank of fuel and if the vehicle has a plug-in charge, begin the charge cycle. Agencies shall be assessed a fee for vehicles that are returned with less than a full tank of fuel;

(e) return rental vehicles in good repair and in clean condition;

(i) agencies shall be assessed a detailing fee for returned vehicles that need extensive cleaning; and

(ii) notify the division if a vehicle is damaged.

(f) call to extend the reservation if they need to keep rental vehicles longer than scheduled. Agencies shall be assessed a late fee, in addition to applicable daily rental fees, for vehicles that are not returned on time;

(g) use their best efforts to return rented vehicles during regular office hours. Agencies may be assessed a late fee equal to one day's rental for vehicles that are not returned on time;

(h) call the daily pool location, at least one hour before the scheduled pick-up time, to cancel the reservation. Agencies shall be assessed a fee for any unused reservation that has not been canceled;

(i) not place advertising or bumper stickers on state vehicles without prior approval from the division.

(2) The vehicle shall be inspected upon its return. The agency shall either be held responsible for any damages not acknowledged before rental, or any applicable insurance deductibles associated with any repairs to the vehicle.

(3) Agencies are responsible for paying applicable insurance deductibles when a vehicle operated by an authorized driver is involved in an accident.

(4) The division shall hold items left in daily rental vehicles for ten days. Items not retrieved within the ten-day period shall be turned over to the State Surplus Property Program for sale or disposal.

#### **R27-3-12. Alcohol and Drugs.**

(1) While under the influence or with any detectable amount of alcohol, illegal drugs, or impairment from legal medication in their body, no authorized driver shall operate or be in actual physical control of a state vehicle.

(2) No operator of a state vehicle shall transport alcohol or illegal drugs of any type in a state vehicle unless they are:

(a) a law enforcement officer, as defined in Section 53-13-103, in the process of investigating criminal activities;

(b) an employee of the Department of Alcoholic Beverage Control conducting business within the guidelines of their daily operations;

or  
(c) an investigator for the Department of Commerce in the process of enforcing Title 58, Chapter 37, Utah Controlled Substances Act.

(3) Except as provided in Subsection R27-3-13(2), any authorized driver who uses a state vehicle for the transportation of alcohol or drugs may have their state driving privileges withdrawn, suspended, or revoked.

#### **R27-3-13. Violations of Motor Vehicle Laws.**

(1) Authorized drivers shall obey motor vehicle laws while operating a state vehicle.

(2) Any authorized driver who receives a citation for a violation of motor vehicle laws shall be personally responsible for paying fines associated with citations. Failure to pay fines associated with citations for the violation of motor vehicle laws shall result in the loss of state driving privileges.

NOTICES OF PROPOSED RULES

**R27-3-14. Seat Restraint Use.**

- (1) Authorized drivers and passengers in state vehicles shall wear seat belt restraints while in the vehicle.
- (2) Children being transported in state vehicles shall be placed in proper safety restraints for their age and size as stated in Section 41-6a-1803.

**R27-3-15. Smoking in State Vehicles.**

State vehicles are designated as "nonsmoking." Agencies shall be assessed fees for any damage and detailing costs incurred as a result of smoking in vehicles.

**KEY: state vehicle use**

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

**Notice of Continuation:** October 20, 2020

**Authorizing, and Implemented or Interpreted Law:** 63A-9-401(1)(d)

NOTICE OF SUBSTANTIVE CHANGE		
<b>TYPE OF FILING:</b> Amendment		
<b>Rule or Section Number:</b>	R58-11	<b>Filing ID:</b> 56713

**Agency Information**

<b>1. Title catchline:</b>	Agriculture and Food, Animal Industry	
<b>Building:</b>	Taylorsville South Office Building, Floor 2	
<b>Street address:</b>	4315 S 2700 W	
<b>City, state:</b>	Taylorsville, UT	
<b>Mailing address:</b>	PO Box 146500	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6500	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amber Brown	385-245-5222	ambermbrown@utah.gov
Leann Hunting	385-977-2158	leannhunting@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R58-11. Slaughter of Livestock and Poultry
<b>3. Purpose of the new rule or reason for the change:</b>
In the process of preparing a five-year review, the Department of Agriculture and Food (Department) identified minor changes to the rule that are needed.
The fee for a Farm Custom Slaughter Identification tag has increased to \$2. This is documented in the fee schedule adopted by the legislature during the 2024 General Session.
Additionally, language is needed to clarify that the Department will maintain a registry of certain exempt poultry processors.
<b>4. Summary of the new rule or change:</b>
This filing changes \$1 to \$2 in Subsection R58-11-7(1)(b)(i).
Additionally, language indicating that the Department will maintain a registry of certain exempt processors is added to Section R58-11-8 Subsections (2) (Farm Custom Slaughter), (5)(Producer or Grower or Other Person Exemption), and (6) (Small Enterprise Exemption).

**Fiscal Information**

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

**A) State budget:**

Under this rule change, the cost of a Farm Custom Slaughter ID tag is increased from \$1 to \$2. Each year approximately 9,000 tags are purchased so this would generate approximately \$9,000 additional revenue per year.

The cost of administering the program will not change.

**B) Local governments:**

Local governments do not participate in the farm custom slaughter or poultry processing programs and will not be impacted by the rule changes.

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

Small businesses purchase farm custom slaughter tags and will be impacted by the increased fee. Each year approximately 60 small business establishments purchase a total of 9,000 tags. On average this would be a total increase cost to small businesses of \$9,000 (\$1 to \$2 per tag) or \$150 per establishment.

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

Non-small businesses do not participate in the farm custom slaughter program and will not be impacted by the rule changes.

**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 farm custom slaughter or poultry processing programs and will not be impacted by the rule changes.

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

Compliance cost or those that purchase farm custom slaughter tags will increase from \$1 to \$2 due to the increased fee.

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$9,000	\$9,000	\$9,000
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$9,000</b>	<b>\$9,000</b>	<b>\$9,000</b>
<b>Fiscal Benefits</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
State Government	\$9,000	\$9,000	\$9,000
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$9,000</b>	<b>\$9,000</b>	<b>\$9,000</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

**Citation Information**

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Section 4-32-109		

**Public Notice Information**

<b>8. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
<b>A) Comments will be accepted until:</b>	10/01/2024

<b>9. This rule change MAY become effective on:</b>	10/08/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Craig W Buttars, Commissioner	<b>Date:</b>	08/13/2024
---	-------------------------------	--------------	------------

**R58. Agriculture and Food, Animal Industry.**

**R58-11. Slaughter of Livestock and Poultry.**

**R58-11-1. Authority.**

Promulgated under authority of Section 4-32-109.

**R58-11-2. Definitions.**

- (1) "Adulterated" means the same as defined in Subsection 4-32-105(1).
- (2) "Bill of Sale for Hides" means a hide release or other formal means of transferring the title of a hide.
- (3) "Business" means an individual or organization receiving remuneration for a service.
- (4) "Commerce" means the exchange transportation of poultry products between states and U.S. territories, including Guam, the Virgin Islands of the United States, American Samoa, and the District of Columbia.
- (5) "Commissioner" means the Commissioner of the Utah Department of Agriculture and Food or their designee.
- (6) "Custom Slaughter-Release Permit" means a permit that serves as a Brand Inspection Certificate and allows an animal owner to have their animal farm custom slaughtered.
- (7) "Department" means the Utah Department of Agriculture and Food.
- (8) "Detain or Embargo" means the holding of a food or food product for legal verification of adulteration, misbranding, or proof of ownership.
- (9) "Farm Custom Slaughtering" means the slaughtering, skinning, and preparing of livestock and poultry by humane means for human consumption that is done at a place other than a licensed slaughtering house by a person who is not the animal owner.
- (10) "Food" means a product intended for human consumption.
- (11) "Immediate Family" means persons and their sons and daughters living together in a single dwelling unit.
- (12) "License" means a license issued by the [~~Utah Department of Agriculture and Food~~] department to allow farm custom slaughtering.
- (13) "Licensee" means a person with a valid Farm Custom Slaughtering License.
- (14) "Misbranded" means the same as defined in Subsection 4-32-105(27).
- (15) "Official establishment" means an establishment at which inspection of the slaughter of animals, or the preparation of meat or poultry products is maintained under the authority of Chapter 4-32, Utah Meat and Poultry Products Inspection and Licensing Act.
- (16) "Owner" means a person holding legal title to an animal.

**R58-11-3. Sanitation Standards.**

- (1) Any person operating in an official establishment shall clean and sanitize food-contact surfaces and non-food-contact surfaces as frequently as necessary to prevent the creation of insanitary conditions and the adulteration of products.
  - (a) Cleaning compounds, sanitizing agents, processing aids, and other chemicals used shall be safe and effective under the conditions of use.
  - (b) Any chemicals used shall be used in a manner that will not adulterate products or create insanitary conditions.

- (c) Documentation substantiating the safety of a chemical's use in a food processing environment shall be made available to inspection program employees for review.
- (d) Product shall be protected from adulteration during processing, handling, storage, loading, unloading, and transportation.
- (2) Any person operating in an official establishment shall maintain grounds to prevent conditions that could lead to insanitary conditions or adulteration of product.
  - (a) A pest management program shall be in place to prevent the harborage and breeding of pests on the grounds and within buildings.
  - (b) The pest control program shall prevent product adulteration.
  - (c)(i) The grounds shall be maintained to prevent the entry of rodents, insects, or animals into areas where there is product.
  - (ii) Each opening leading to the outside or an area holding an inedible product shall have an effective closure that completely fills the opening.
    - (d) Each area inside and outside shall be maintained to prevent harborage of rodents and insects.
    - (e) Any pest control substance used shall be safe and effective under the conditions of use and may not be applied or stored in a manner that would result in the adulteration of product or the creation of insanitary conditions.
- (3) Any person operating in an official establishment shall ensure that each sewage and waste disposal system shall properly remove sewage and waste material such as feces, feathers, trash, garbage, and paper.
  - (a) Sewage shall be disposed of into a sewage system separate from other drainage lines or through other means sufficient to prevent backup of sewage into areas where a product is processed, handled, or stored.
  - (b) If the sewage disposal system is a private system requiring approval by a state or local health authority, a letter of approval from that authority to the inspector shall be provided upon request.
- (4) An official establishment shall supply running water that complies with the National Primary Drinking Water Regulations, 40 CFR 141, at a suitable temperature and under pressure as needed, in any area where required for processing products; for cleaning rooms and equipment, utensils, and packaging materials; and for employee sanitary facilities.
  - (a) If a municipal water supply is used, the supplier shall provide a water report, issued under the authority of the state or local health agency, certifying or attesting to the potability of the water supply, and make the information available to the inspector, upon request.
  - (b) An official establishment using a private well shall document at least semi-annually, the potability of the water supply and make the documentation available to the inspector upon request.
- (5) Each official establishment shall be maintained during slaughtering and processing in a manner to ensure the production of wholesome, unadulterated products.
  - (6)(a) Dressing rooms, toilet rooms, and urinals shall be sufficient in number, ample in size, conveniently located, and maintained in a sanitary condition and in good repair to ensure the cleanliness of any person handling any product.
  - (b) Dressing rooms, lavatories, and toilets shall be separate from the rooms and compartments where products are processed, stored, or handled.
- (7) Any person operating in an official establishment shall handle and maintain inedible material to prevent the diversion of inedible animal products into human food channels and prevent the adulteration of human food.

**R58-11-4. Farm Custom Slaughtering License.**

- (1) Anyone who desires to do farm custom slaughtering shall apply for a Farm Custom Slaughtering License.
- (2)(a) An application for a Farm Custom Slaughtering License shall be on a form provided by the department.
- (b) The application shall show:
  - (~~[a]~~i) the name, address, and telephone number of the owner of the facility;
  - (~~[b]~~ii) the name, address, and telephone number of the operator if it is different than the owner; and
  - (~~[e]~~iii) a brief description of the vehicle to be used and the license number.
- (3)(a) Farm Custom Slaughtering Licenses will be valid for the calendar year.
- (b) Each licensee will be required to re-apply for a license each calendar year.
- (c) Any change of ownership or vehicle license will require a person to file a new application with the department.
- (4) The department will not recognize a Farm Custom Slaughtering License as complete until the applicant has demonstrated the ability to slaughter and has completed and signed the license application form.
- (5) An applicant shall pay the applicable fee, as set forth in the fee schedule approved by the Legislature, before the department issues the license.

**R58-11-5. Equipment and Sanitation Requirements.**

- (1) Any vehicle or unit used for farm custom slaughtering shall be maintained consistent with the sanitation standards in Section R58-11-3.
- (2)(a) Any vehicle or unit shall incorporate a tripod or rail that can lift a carcass to a height that enables the carcass to clear the ground for bleeding and evisceration.
- (b) Any hook, gamble, or rack used to hoist and eviscerate animals shall be of easily cleanable metal construction.
- (3)(a) Knives, scabbards, saws, and other equipment shall be made of rust resistant metal or other impervious, easily cleanable material.
  - (b) A clean, dust proof container shall be used to transport and store each instrument and utensil used in slaughtering animals.
- (4)(a) A water tank shall be an integral part of the unit or vehicle.
- (b) The water tank shall be of approved construction with a minimum capacity of 40 gallons.
- (c) A licensee shall maintain each water system according to sanitary standards and use only potable water.

## NOTICES OF PROPOSED RULES

(5) A licensee shall fill a sanitation tank large enough to allow complete immersion of each tool used for slaughtering during slaughter operations with potable water and maintained at a temperature of at least 180 degrees Fahrenheit.

(a)(i) In lieu of 180 degrees Fahrenheit water, a licensee may use chemical sterilization with an approved chemical agent after thoroughly cleaning the equipment.

(ii) Chloramine, hypochlorite, quaternary ammonium or other approved chemical compounds may be used for this purpose, and a concentration shall be maintained sufficient to disinfect each utensil.

(b) Hot water, cleaning agents, and disinfectant shall be available if chemicals are used in lieu of 180 degrees Fahrenheit water.

(6) Cleaning agents and paper towels shall be available so any person can clean their hands and equipment as needed.

(7) Any apron, frock, or other outer clothing worn by a person who handles meat shall be clean and of material that is easily cleanable.

(8) Pursuant to 9 CFR 325.13, any licensee may denature inedible product and offal with either an approved denaturing agent or using pounce material as a natural denaturing agent.

(9) When a licensee transports uninspected meat to an establishment for processing, they shall:

(a) do so in a manner whereby the product will not be adulterated, misbranded, or mislabeled;

(b) transport the meat in such a way that it is properly protected; and

(c) deliver carcasses to be placed under refrigeration at or below 40 degrees Fahrenheit within one hour of slaughter.

(10) A licensee shall thoroughly clean each unit or vehicle after each daily use.

(11) A licensee shall clean and sanitize any food-contact and non-food-contact surfaces of utensils and equipment as necessary to prevent the creation of insanitary conditions and the adulteration of carcasses and parts.

(12) A licensee shall protect carcasses from adulteration during processing, handling, storage, loading, unloading, and transportation to processing establishments.

(13) A licensee shall clean and sanitize knives, scabbards, saws, and other food-contact surfaces before slaughter and as needed to prevent adulteration.

(14) A licensee shall clean and sanitize equipment after each slaughter and immediately before each slaughter.

(15) A licensee shall place and properly denature inedible in designated containers. The inedible containers shall be:

(i)a marked "Inedible Not For Human Consumption" in letters not less than 4 inches in height; and

(ii)b kept clean and properly separated from edible carcasses to prevent adulteration.

(16) A licensee shall take adequate care to prevent contamination of the carcasses from fecal material, ingesta, milk, perspiration, hair, cosmetics, medication, and similar substances.

(17) Outer clothing a licensee wears while handling exposed carcasses shall be clean.

(18) A licensee with a communicable disease, who is a disease carrier, or who infected with boils, infected wounds, sores, or an acute respiratory infection may not participate in livestock slaughtering.

(19) A licensee shall use the hand wash facilities as needed to maintain good personal hygiene.

### **R58-11-6. Slaughtering Procedures of Livestock.**

(1) Slaughtering may not take place under adverse conditions such as blowing dirt, dust, or mud.

(2) If a licensee uses a slaughter area for repeated kills, the licensee shall maintain the area to prevent blood from collecting, running off onto adjacent property, or contaminating a water source.

(3) A licensee shall remove and dispose of any hides, viscera, blood, pounce material, and tissue at a rendering facility, landfill, composting, or burial as allowed by law.

(4) A licensee shall make each animal insensible to pain by a single blow, gunshot, electrical shock, or other means that is instantaneous and effective before the animal is shackled, hoisted, thrown, cast, or cut.

(5)(a) A licensee shall hoist and bleed each animal as soon after stunning as possible to utilize post-stunning heart action and to obtain complete bleeding.

(b) A licensee shall move carcasses away from the bleeding area for skinning and butchering.

(6) A licensee shall:

(a) handle the carcass and head skin without contaminating the neck tissue by leaving the ears on the hide and tying the head skin;

(b) remove the feet before the carcass is otherwise cut;

(c) except for skinning and starting skinning procedures, cut the skin from the inside outward to prevent carcass contamination with cut hair; and

(d) carefully roll or reflect away the hair side of the hide from the carcass during skinning when the carcass is moved from the skinning bed, caution should be taken to prevent exposed parts from contacting adulterating surfaces.

(7)(a) Before evisceration, a licensee shall tie the rectum, including the bladder neck, to prevent urine and fecal leakage.

(b) A licensee shall take care while opening abdominal cavities to prevent carcass or viscera contamination.

(8)(a) A licensee shall trim hair, dirt, and other accidental contamination before washing.

(b) Washing should proceed from the carcass top downward to remove any possible contaminants from clean areas.

(9) Emergency slaughter does not include the slaughter of non-ambulatory injured cattle. For this rule, the department does not allow non-ambulatory disabled cattle that cannot rise from a recumbent position or cannot walk, including, those with broken appendages, severed tendons or ligaments, nerve paralysis, fractured vertebral column, or metabolic conditions to be slaughtered for food.

### **R58-11-7. Identification and Records.**

(1) Pursuant to Section 4-24-304, it shall be unlawful for any licensee to slaughter livestock that does not have a Brand Inspection Certificate or Farm Custom Slaughter Tag filled out at the time of slaughter.



(a) Animal owners shall have a Brand Inspection Certificate for livestock intended to be farm custom slaughtered, issued by a department Brand Inspector before slaughter, and shall pay the legal brand inspection fee and beef promotion fee. This is accomplished by the animal owner contacting a department Brand Inspector and obtaining a Brand Inspection Certificate, and a Custom Slaughter-Release Permit.

(b)(i) Animal owners shall obtain Farm Custom [s]Slaughter identification tags from a department Brand Inspector for a fee of \$[+]2 each.

(ii) The department requires these tags on beef, pork, and sheep.

(2)(a) The Custom Slaughter-Release Permit or Farm Custom Slaughter Tag shall include an affidavit with a signed statement that reads: "I hereby certify ownership of this animal to be slaughtered by ('insert name'). I fully understand that having my animal farm custom slaughtered means my animal will not receive meat inspection and is for my use, the use of my immediate family, non-paying guests, or full-time employees. The carcass will be stamped "NOT FOR SALE" and will not be sold."

(b) In addition to this affidavit, the owner or designee will record the following information:

(i) date;

(ii) owner's name, address, and telephone number;

(iii) animal description, including brands and marks;

(iv) Farm Custom Slaughter Tag number;

(v) location of slaughter;

(vi) name of licensee;

(vii) licensee permit number; and

(viii) carcass destination.

(3) Before slaughter, the licensee shall prepare the Farm Custom Slaughter Tag with complete and accurate information.

(a) One tag shall stay in the license holder's file for at least one year.

(b) One tag plus a copy of the Farm Custom Slaughter-Release Permit shall be sent to the department by the 10th of each month for the preceding month's slaughter by the licensee.

(4) After slaughter, any licensee shall stamp the carcasses "NOT FOR SALE" on each quarter with letters at least 3/8" in height; and affix a Farm Custom Slaughter "NOT FOR SALE" tag to each quarter of beef and each half of pork and sheep.

(5) A licensee receiving hides for slaughtering services shall obtain a copy of the Custom Slaughter-Release Permit to record the transfer of ownership, pursuant to Section 4-24-18.

#### **R58-11-8. Poultry Slaughter.**

(1)(a) Personal Use Exemption.

(b) A person who raises poultry may slaughter or process the poultry under a personal use exemption if:

(i) local ordinances do not prohibit slaughtering or processing poultry;

(ii) the person or the person's immediate family, regular employees of the person, or non-paying guests exclusively consume the poultry product derived from the slaughtered poultry;

(iii) only the owner or an employee performs the slaughtering or processing of the poultry;

(iv) the poultry is healthy when slaughtered;

(v) the exempt poultry is not sold or donated for use as human food; and

(vi) the immediate container bears the statement, "NOT FOR SALE".

(2)(a) Farm Custom Slaughter and Processing.

(b) Per Subsections 4-32-105(10) and 4-32-105(11)(a), a person may slaughter or process poultry belonging to another person if:

(i) local ordinances do not prohibit slaughtering or processing poultry;

(ii) the person does not engage in the business of buying or selling poultry products capable of use as human food;

(iii) the poultry is healthy when slaughtered;

(iv) the person conducts the slaughtering or processing in accordance with sanitation standards that produce poultry product that is sound, clean, and fit for human food;

(v) the person using a unit or vehicle for farm custom slaughtering constructs the unit or vehicle to permit maintenance according to sanitation standards; and

(vi) the immediate container bears the following information:

(A) the owner's name and address;

(B) the licensee's name and address; and

(C) the statement, "NOT FOR SALE".

(c) The department shall maintain a registry of persons who perform Farm Custom Slaughter and processing during the calendar year.

(3)(a) Producer or Grower 1,000 Bird Limit Exemption.

(b) A poultry producer or grower may slaughter no more than 1,000 birds of their raising in a calendar year for distribution as human food if:

(i) the poultry producer or grower does not engage in buying or selling poultry products other than products produced from poultry raised on their own farm, including- rented or leased property;

(ii) the producer or grower slaughters or processes under the sanitation standards capable of producing poultry products that are sound, clean, fit for human food, and not adulterated;

(iii) the producer or grower keeps slaughter records and records covering the sales of poultry products to customers for the current calendar year;

NOTICES OF PROPOSED RULES

(iv) the poultry products do not move in commerce; and  
(v) as required by the U.S. Public Health Service, Food and Drug Administration, Food Code ~~[2013]~~2022, incorporated by the department in Section R70-530-3, the immediate container bears the following information:

(A) name of product; and

(B) name and place of business of the processor; and

(vi) the immediate container bears the statement "Exempt R58-11-8(3)."

(b) The department shall maintain a registry of persons who slaughter or process fewer than 1,000 poultry during the calendar year.

(4)(a) Producer or Grower 20,000 Bird Limit Exemption.

(b) A poultry producer or grower may slaughter no more than 20,000 healthy birds of their raising in a calendar year for distribution as human food if:

(i) the poultry producer or grower does not engage in buying or selling poultry products other than that produced from poultry raised on their own farm, including- rented or leased property;

(ii) the poultry producer or grower slaughters or processes in accordance with sanitation standards that produce poultry product that is sound, clean, and fit for human food;

(iii) the producer or grower keeps slaughter records and records covering the sales of poultry products to customers for the current calendar year;

(iv) the poultry product does not move in commerce, as defined in 9 CFR 381.1; and

(v) the immediate container bears the following information:

(A) name of product;

(B) name and address of the processor; and

(C) the statement "Exempt R58-11-8(4)."

(c) The department shall maintain a registry of persons who slaughter or process fewer than 20,000 poultry during the calendar year.

(5)(a) Producer or Grower or Other Person Exemption.

(b) The term "Producer or Grower or Other Person" in this section means a single entity, that may be:

(i) a poultry grower who slaughters and processes poultry raised for sale directly to household consumers, restaurants, hotels, and boarding houses to be used in homes and dining rooms to prepare meals served or sold directly to customers; or

(ii) a person who purchases live poultry from a grower and then slaughters these poultry and processes poultry for sale direct to household consumers, restaurants, hotels, and boarding houses to be served in those homes or dining rooms to prepare meals sold directly to customers.

(c) A business may slaughter and process poultry under this exemption if:

(i) local ordinances do not prohibit slaughtering or processing poultry;

(ii) the producer or grower or other person slaughters for processing and sale direct to household consumers, restaurants, hotels, and boarding houses for use in dining rooms or the preparation of meals sold directly to customers;

(iii) the producer or grower or other person slaughters no more than 20,000 birds in a calendar year that the producer or grower or other person raised or purchased;

(iv) the producer or grower or other person does not engage in the business of buying or selling poultry or poultry products prepared under any other exemptions in the same calendar year they claim the Producer or Grower or Other Person Exemption;

(v) the poultry products do not move in commerce;

(vi) distribution is directly to household consumers, restaurants, hotels, and boarding houses for use in their dining rooms or in the preparation of meals sold directly to consumers within the jurisdiction where it is prepared;

(vii) the business slaughters or processes in a fixed establishment and in accordance with sanitation standards that produce poultry products that are sound, clean, and fit for human food;

(viii) the producer keeps slaughter records and records covering the sales of poultry products to customers for the current calendar year; and

(ix) the immediate containers bear the following information:

(A) name of product;

(B) ingredients statement if applicable;

(C) net weights statement;

(D) name and address of the processor;

(E) safe food handling statement;

(F) date of the package or Lot number; and

(G) the statement "Exempt R58-11-8(5)".

(d) A business preparing poultry products under the Producer or Grower or Other Person Exemption may not slaughter, or process poultry owned by another person.

(e) A business preparing poultry products under the Producer or Grower or Other Person Exemption may not sell poultry products to a retail store or other producer or grower.

(f) The department shall maintain a registry of persons who operate under a Producer or Grower or Other Person Exemption during the calendar year.

(6)(a) Small Enterprise Exemption.

(b) A business that qualifies for the Small Enterprise Exemption may be:

(i) a producer or grower who raises, slaughters, and dresses poultry for use as human food whose processing of dressed exempt poultry is limited to cutting up;

- (ii) a business that purchases live poultry that it slaughters and limits the processing of the slaughtered poultry to the cutting up; or
- (iii) a business that purchases dressed poultry that it distributes as carcasses and limits processing to the cutting up of inspected or exempted poultry products for distribution for use as human food.
- (c) A business may slaughter, dress, and cut up poultry for distribution as human food if:
  - (i) local ordinances do not prohibit slaughtering or processing poultry;
  - (ii) the business limits the processing of federal or state inspected, or exempt poultry products to the cutting up of carcasses or the business slaughters and dresses or cuts up no more than 20,000 birds in a calendar year;
  - (iii) the business slaughters or processes in a fixed establishment and in accordance with sanitation standards that produce poultry product that is sound, clean, and fit for human food;
  - (iv) the facility is not used to slaughter or process another person's poultry; and
  - (v) the immediate containers bear the following information:
    - (A) name of product;
    - (B) ingredients statement if applicable;
    - (C) net weights statement;
    - (D) name and address of processor;
    - (E) safe food handling statement;
    - (F) date of package or Lot number, and;
    - (G) the statement "Exempt R58-11-8(6)."
- (d) A business may not cut up and distribute poultry products produced under the Small Enterprise Exemption to a business operating under the following exemptions:
  - (i) Producer or Grower or PGOP Exemption;
  - (ii) Retail Dealer; or
  - (iii) Retail Store.
- (e) The department shall maintain a registry of persons who operate under the Small Enterprise Exemption during the calendar year.

**R58-11-9. Producer and Grower Sharing a Fixed Facility.**

- (1) Each producer or grower shall comply with the laws and regulations governing establishments as set forth in Title 4, Chapter 32, Utah Meat and Poultry and Poultry Products Inspection and Licensing Act, this rule, the United States Department of Agriculture Poultry Exemptions, and federal regulations that apply.
- (2)(a) Each producer or grower shall notify the department five business days before slaughtering and processing.
- (b) The individual shall provide the department with the following information pertaining to the slaughtering and processing of birds:
  - (i) the date;
  - (ii) the time; and
  - (iii) the location.
- (3) The producer or grower shall:
  - (a) conduct a pre-operational inspection on any food-contact surfaces;
  - (b) document the findings of the pre-operational inspection and corrective actions pursuant to 9 CFR 416.12(a) and 416.15 before the commencement of operations;
  - (c) maintain records for at least one year and have them available for inspection by department officials;
  - (d) fully label the product in accordance with this rule before leaving the facility;
  - (e) maintain the product temperature at 40 degrees F or less during transport; and
  - (f) keep a written recall plan pursuant to 9 CFR 418 and have it available for inspection by department officials.
- (4) Producers or growers may not process on the same day as any other producer or grower.

**R58-11-10. Enforcement Procedures.**

- (1) It is unlawful for any person to slaughter or assist in slaughtering livestock and poultry as a business outside of a licensed slaughterhouse unless they hold a valid Farm Custom Slaughtering License issued by the department.
- (2) Only persons who comply with Title 4, Chapter 32, Utah Meat and Poultry Products Inspection and Licensing Act and associated rules, and Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, shall be entitled to receive and retain a license.
- (3) A license may be renewed annually and shall expire on the 31st of December of each year.
- (4) A license may be suspended when:
  - (a) the department has reason to believe that an eminent public health hazard exists;
  - (b) insanitary conditions are such that carcasses would be made adulterated and or contaminated;
  - (c) the license holder has interfered with the department in the performance of its duties; or
  - (d) the licensee violates Title 4, Chapter 32, the Utah Meat and Poultry Products Inspection and Licensing Act or Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act or associated rules.
- (5)(a) The department may, pursuant to 9 CFR 500, suspend or terminate any exemption with respect to any person when the department finds that the action will aid in effectuating the purposes of the Act.
- (b) Failure to comply with the conditions of the exemption, including failure to process poultry and poultry products under sanitation standards, may result in termination of an exemption, in addition to other penalties consistent with 9 CFR 318.13.
- (6) When a violation may have occurred, the department may send a warning letter to the licensee that specifies the violations and affords the holder a reasonable opportunity to correct them.

NOTICES OF PROPOSED RULES

(7) When a licensee has been notified by the department that suspected violations have occurred or when the department suspends a license, the licensee may have an opportunity for a hearing to state their views before the department.

(8)(a) Any person whose license has been suspended may apply for reinstatement.

(b) The department may re-evaluate the applicant and conditions.

(c) The department may reinstate the license if the applicant has demonstrated to the department that they will comply with the rules.

(9) The department or detain or embargo any meat found in a food establishment that does not have the proper identification or any uninspected meat slaughtered by a licensee that does not meet the requirements of this rule may detained or embargo.

(10) The department may denature or destroy meat determined to be unfit for human consumption.

**KEY: food inspections, slaughter, livestock, poultry**

**Date of Last Change: 2024[April 22, 2024]**

**Notice of Continuation: December 19, 2019**

**Authorizing, and Implemented or Interpreted Law: 4-32-109**

<b>NOTICE OF SUBSTANTIVE CHANGE</b>		
<b>TYPE OF FILING:</b> Amendment		
<b>Rule or Section Number:</b>	<b>R66-2</b>	<b>Filing ID: 56711</b>

**Agency Information**

<b>1. Title catchline:</b>	Agriculture and Food, Medical Cannabis and Industrial Hemp	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S 2700 W	
<b>City, state:</b>	Taylorsville, UT	
<b>Mailing address:</b>	PO Box 146500	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6500	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amber Brown	385-245-5222	ambermbrown@utah.gov
Brandon Forsyth	801-710-9945	bforsyth@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R66-2. Cannabis Processing
<b>3. Purpose of the new rule or reason for the change:</b>
Changes are needed to update references in this rule to make it consistent with new cannabis rule numbering under Title R66.  Minor clarifications are also needed in Section R66-2-9 related to inventory control requirements. New language is needed to establish standards for remediation through irradiation, as the Department of Agriculture and Food (Department) has gotten questions about using this practice.  New language is also needed to establish standards for the use of targeted marketing that are consistent with legislative changes passed during the 2024 General Session in S.B. 233.
<b>4. Summary of the new rule or change:</b>
Changes have been made throughout this rule to update rule references to be consistent with new numbering under Title R66.  In Section R66-2-9, clarification has been made related to inventory requirements, including requiring recording of a batch or lot number and the date the inventory was entered into the system, as well as clarifying the information that is required on the physical tag on each batch, lot, or sample that is inventoried.

A new Section R66-2-14 has been created specifying the circumstances under which a processor may use irradiation to remediate cannabis, including requirements that the method be approved in their operating plan and irradiation be noted in the inventory controls system, as well as three-year record keeping requirements and labeling requirements for products that include irradiated cannabis.

A new Section R66-2-21 has been added to specify the circumstances under which a medical cannabis processor may engage in targeted marketing under Section 4-41a-604. The language sets limitations as to what information targeted marketing may and may not include.

**Fiscal Information**

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

**A) State budget:**

There are some minor increased costs to the Department due to increased inspection time related to enforcement of the irradiation requirements and targeted marketing requirements. The Department estimates a total cost increase of \$8,500 per year.

**B) Local governments:**

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

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

There could be potential small increased costs to businesses (licensees) to follow the irradiation or targeted marketing requirements, however, the Department is not able to estimate these because both programs are voluntary and we have no way to determine whether they will be used or how often at this time.

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

There could be potential small increased costs to businesses (licensees) to follow the irradiation or targeted marketing requirements, however, the Department is not able to estimate these because both programs are voluntary and we have no way to determine whether they will be used or how often at this time.

**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.

**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 are not changing. The rule changes do not impose any additional costs on licensees.

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
State Government	\$8,500	\$8,500	\$8,500
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$8,500</b>	<b>\$8,500</b>	<b>\$8,500</b>
<b>Fiscal Benefits</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

NOTICES OF PROPOSED RULES

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$(8,500)</b>	<b>\$(8,500)</b>	<b>\$(8,500)</b>

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

**Citation Information**

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

Section 4-41a-103	Section 4-41a-302	Section 4-41a-404
Section 4-41a-405	Section 4-41a-701	Section 4-41a-801

**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:** 10/01/2024

**9. This rule change MAY become effective on:** 10/08/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Craig W Buttars, Commissioner	<b>Date:</b>	08/12/2024
---	-------------------------------	--------------	------------

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

**R66-2. Cannabis Processing.**

**R66-2-1. Authority and Purpose.**

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

**R66-2-2. Definitions.**

- (1) "Advertised Cannabinoid" means a cannabinoid listed on the product face.
- (2) "Appealing to children" means:
  - (a) has a likeness bearing resemblance to a cartoon character or fictional character; or
  - (b) appears to imitate a food or other product that is typically marketed toward or is appealing to children.
- (3) "Applicant" means any person or business entity who applies for a cannabis processing facility license.
- (4)(a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the cannabis plant.
  - (b) "Artificially derived cannabinoid" does not include:
    - (i) a naturally occurring chemical substance that is separated from the cannabis plant by a chemical or mechanical extraction process;
    - or
    - (ii) a cannabinoid that is produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst.
- (5) "Batch" means a quantity of:
  - (a) cannabis extract produced on a particular date and time, following clean up until the next clean up during which lots of cannabis are used;
  - (b) cannabis product produced on a particular date and time, following clean up until the next clean up during which cannabis extract is used; or
  - (c) cannabis flower packaged on a particular date and time, following clean up until the next clean up during which lots of cannabis are being used.
- (6) "Brand name" means a type of product manufactured by a particular company under a particular name. "Brand name" does not mean strains or flavors.
- (7) "Board" means the Cannabis Production Establishment Licensing Advisory Board, created in Section 4-41a-201.1.

- (8) "Cannabinoid isolate" means the same as the term is defined in Subsection ~~[R68-29-2(11)]~~R66-3-2(11).
- (9)(a) "Cannabis" means any part of a marijuana plant.
- (b) "Cannabis" does not mean, for the purposes of this rule, industrial hemp.
- (10) "Cannabis concentrate" means the product of any chemical or physical process applied to cannabis biomass that concentrates or isolates the cannabinoids contained in the biomass.
- (11) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.
- (12) "Cannabis cultivation facility" means a person that:
- possesses cannabis;
  - grows or intends to grow cannabis; and
  - sells or intends to sell cannabis to a cannabis cultivation facility or to a cannabis processing facility.
- (13) "Cannabis derivative product" means a product made using cannabis concentrate.
- (14) "Cannabis fact panel" means a part of the label that contains the information described in Subsections ~~[R68-28-13(6) and R68-28-13(7)]~~R66-2-15(10) and R66-2-15(12).
- (15) "Cannabis plant product" means any portion of a cannabis plant intended to be sold by a medical cannabis pharmacy in a form that is recognizable as a portion of a cannabis plant.
- (16) "Cannabis processing facility" means a person that:
- acquires or intends to acquire cannabis from a cannabis production establishment;
  - possesses cannabis with the intent to manufacture a cannabis product;
  - manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis concentrate; and
  - sells or intends to sell a cannabis product to a medical cannabis pharmacy.
- (17) "Cannabis processing facility agent" means an individual who holds a valid cannabis production establishment agent registration card with a cannabis processing facility designation.
- (18) "Cannabis production establishment agent registration card" means a registration card that the department issues that:
- authorizes an individual to act as a cannabis production establishment agent; and
  - designates the type of cannabis production establishment for which an individual may act as an agent.
- (19) "COA" means Certificate of Analysis from an independent cannabis testing laboratory.
- (20) "Complaint" means any negative feedback received from a medical cannabis patient or medical cannabis or industrial hemp licensee.
- (21) "Department" means the Utah Department of Agriculture and Food.
- (22) "Directions for use" means recommended routes of administration for a medical cannabis treatment and suggested usage guidelines, and may include:
- THC percentage;
  - strain names;
  - strain dominance; or
  - dietary restrictions.
- (23) "Label" means a written, printed, or graphic display on the immediate container of a product.
- (24) "Labeling" means a label and other written, printed, or graphic display:
- on the product or the product's container or wrapper; or
  - accompanying the product.
- (25) "Logo" means symbols, stylized text, or both that represent a company through a visual image that can be easily understood and recognized.
- (26) "Lot" means the quantity of:
- flower produced on a particular date and time, following clean up until the next clean up during which the same materials are used; or
  - trim, leaves, or other plant matter from cannabis plants produced on a particular date and time, following clean up until the next clean up.
- (27) "Product face" means the part of a label that is on the outer packaging and most likely to be displayed, presented, or shown under customary conditions of display for retail sale.
- (28) "Total THC" means the sum of the determined amounts of delta-9-THC and delta-9-THCA, according to the formula: Total THC = delta-9-THC + (delta-9-THCA x 0.877).

**R66-2-3. Cannabis Processing Facility License.**

- A cannabis processing facility license allows the licensee to receive cannabis from a cannabis production facility.
- A Tier 1 cannabis processing facility license allows the licensee to:
  - create cannabis concentrate;
  - create cannabis derivative product; and
  - package and label final product.
- A Tier 2 cannabis processing facility license allows the licensee to package and label cannabis and cannabis final product.
- A complete application shall include the required fee, statements, forms, diagrams, operation plans, copy of current Utah manufactured food establishment registration, and other applicable documents required in the application packet to be accepted and processed by the department.

## NOTICES OF PROPOSED RULES

- (5) Before approving an application, the department may contact the applicant and request additional supporting documentation or information.
- (6) Before issuing a license, the department shall inspect the proposed premises to determine if the applicant complies with state laws and rules.
- (7) Each cannabis processing facility license shall expire one calendar year from the date of licensure.
- (8) An application for renewals shall be submitted to the department 30 days before expiration.
- (9) If the renewal application is not submitted 30 days before the expiration date, the licensee may not continue to operate.
- (10) A cannabis production establishment license is not transferable or assignable. If the ownership of a cannabis production establishment changes by 50% or more, the requirements of Subsection 4-41a-201(15) shall be followed.

### **R66-2-4. Cannabis Processing Facility Requirements.**

- (1) A cannabis processing facility operating plan shall contain a blueprint of the facility containing the following information:
  - (a) the square footage of the areas where cannabis is to be extracted;
  - (b) the square footage of the areas where cannabis or cannabis products are to be packaged and labeled;
  - (c) the square footage of the areas where cannabis products are manufactured;
  - (d) the square footage and location of storerooms for cannabis awaiting extraction;
  - (e) the square footage and location of storerooms for cannabis awaiting further manufacturing;
  - (f) the area where finished cannabis and cannabis products are stored;
  - (g) the location of toilet facilities and hand washing facilities;
  - (h) the location of a break room and location of personal belonging lockers;
  - (i) the location of the areas to be used for loading and unloading of cannabis and cannabis products; and
  - (j) the total square footage of the overall cannabis processing facility.
- (2) A cannabis processing facility shall have written emergency procedures to be followed in case of:
  - (a) fire;
  - (b) chemical spill; or
  - (c) other emergency at the facility.
- (3) A cannabis processing facility shall have a written plan to handle potential recall and destruction of cannabis due to contamination.
- (4) A cannabis processing facility shall use a standardized scale that is registered with the department when cannabis is:
  - (a) packaged for sale by weight;
  - (b) bought and sold by weight; or
  - (c) weighed for entry into the inventory control system.
- (5) A cannabis processing facility shall compartmentalize each area in the facility based on function and shall limit access between compartments.
  - (6) A cannabis processing facility shall limit access to the compartments to the appropriate agents.
  - (7) A cannabis processing facility creating cannabis derivative product shall develop standard operating procedures.
  - (8) Pursuant to Subsection 4-41a-403(4)(b), a cannabis processing facility may use signage on the property that includes a logo, as long as the logo does not include:
    - (a) unprofessional terms, slang, phrasing, or verbiage associated with the recreational use of cannabis;
    - (b) any image bearing resemblance to a cartoon character or fictional character whose target audience is children or minors;
    - (c) content, symbol, or imagery that the cannabis processing facility knows or should know appeals to children;
    - (d) imagery featuring a person using the product in any way;
    - (e) any recreationally oriented subject; or
    - (f) any statement, design, or representation, picture, or illustration that is obscene or indecent.
  - (9) A cannabis processing facility shall keep records of any complaints received and make those records available to the department upon request.
  - (10) A cannabis processing facility shall keep records verifying that each time they receive a batch of vaporizer cartridges a sample is tested for heavy metals by an independent cannabis testing laboratory pursuant to Section 4-41a-603 or have a certificate of conformance from the manufacturer.

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

- (1) Any facility that has both an industrial hemp processing license and a license for medical cannabis processing shall ensure physical separation of medical cannabis and industrial hemp in their facility.
- (2) Processing of industrial hemp material and cannabis material may not occur on the same equipment on the same day, unless cleaned between runs.
  - (3) Processing equipment may be considered neutral territory for hemp and cannabis if:
    - (a) only one material is present in neutral territory at a time;
    - (b) packaging tables in neutral territory are only used for the material being processed that day; and
    - (c) if packaging tables are used for another material they shall be moved to the respective side of the facility.
  - (4) If the facility uses the same machinery to process both industrial hemp and medical cannabis:
    - (a) the machinery shall be cleaned in between hemp and cannabis days;
    - (b) cleaning logs shall be kept and monitored by the department upon inspection of the facility; and
    - (c) cleaning logs shall include the machines used, the date cleaned, and the name of the employee that conducted the cleaning.



- (5) Packaging of medical cannabis and industrial hemp may occur:
  - (a) in a neutral zone; or
  - (b) in a designated side of the facility.
- (6) Freezer separation.
  - (a) Each licensee that processes both medical cannabis and industrial hemp shall have a separate freezer or a physical separation within the same freezer for each material.
  - (b) Cannabis and hemp material shall be clearly labeled pursuant to the requirements of this rule and Rule R68-25 and shall be in sealed containers.
- (7) Storage separation.
  - (a) Industrial hemp and medical cannabis shall be stored in separate secure locations.
  - (b) Storage shall include storage for:
    - (i) final product;
    - (ii) raw material; and
    - (iii) processed material.
  - (8) Upon request, the licensee shall inform the department of how separation of materials is implemented, including the facility's separation procedures for raw material, extract, and final products.

**R66-2-6. Cannabis Extraction Requirements.**

- (1) A cannabis processing facility shall ensure hydrocarbons n-butane, isobutane, propane, or heptane are of at least 99% purity.
- (2) A cannabis processing facility shall use a professional grade extraction system designed to recover the solvents, work in an environment with proper ventilation, and control each source of ignition where a flammable atmosphere is or may be present.
- (3) A cannabis processing facility using carbon dioxide (CO<sub>2</sub>) gas extraction system shall use a professional grade closed loop CO<sub>2</sub> gas extraction system where each vessel is rated to a minimum of six hundred pounds per square inch and CO<sub>2</sub> shall be at least 99% purity.
- (4) Closed loop hydrocarbon, alcohol, or CO<sub>2</sub> extraction systems shall be commercially manufactured and bear a permanently affixed and visible serial number.
- (5) A cannabis processing facility using a closed loop system shall, upon request, provide the department with certification from a licensed engineer stating the system is:
  - (a) safe for its intended use;
  - (b) commercially manufactured; and
  - (c) built to conform to recognized and generally accepted good engineering practices, such as:
    - (i) the American Society of Mechanical Engineers (ASME);
    - (ii) American National Standards Institute (ANSI);
    - (iii) Underwriters Laboratories; or
    - (iv) The American Society for Testing and Materials.
  - (6) The certification document shall contain the signature and stamp of the certifying professional engineer and the serial number of the extraction unit being certified.
  - (7) A cannabis processing facility may use an alternative extraction method with prior approval from the department.
  - (8) A cannabis processing facility shall use food grade ingredients to create cannabis derivative product.
  - (9) A cannabis processing facility may use heat, screens, presses, steam distillation, ice water, and other mechanical methods which do not use solvents or gasses.
  - (10) A cannabis processing facility shall ensure each solvent, with the exception of CO<sub>2</sub>, is extracted in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.
  - (11) A cannabis processing facility agent using solvents or gasses in a closed loop system shall be fully trained in the use of the system and have direct access to applicable material safety data sheets.
  - (12) Parts per million for one gram of finished extract cannot exceed residual solvent or gas levels provided in Rule R68-29.

**R66-2-7. Cannabinoid Isolate.**

- (1) A licensed Tier 1 cannabis processing facility may use cannabinoid isolate from a licensed industrial hemp processing facility.
- (2) A Tier 1 cannabis processing facility may not receive more than 120 kilograms of cannabinoid isolate in a single license year.
- (3) Any transfer of cannabinoid isolate shall be accompanied by a full panel COA.
- (4) The cannabis processing facility shall maintain record of each transfer of cannabinoid isolate that is available for review by the department, including:
  - (a) the source of the cannabinoid isolate and verification that it was derived from certified industrial hemp;
  - (b) the intended use of the cannabinoid isolate; and
  - (c) the disposition of the cannabinoid isolate.
- (5) Upon receipt of cannabinoid isolate, a cannabinoid processing facility shall submit a sample of the isolate to a licensed independent cannabis testing laboratory for cannabinoid and adulterant testing, pursuant to the requirements of Rule ~~R68-29~~ R66-3.

**R66-2-8. Security Requirements.**

- (1) At a minimum, each cannabis processing facility shall have a security alarm system on each perimeter entry point and perimeter window.
- (2) At a minimum, a licensed cannabis processing facility shall have a complete video surveillance system:

## NOTICES OF PROPOSED RULES

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

### **R66-2-9. Inventory Control.**

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

**R66-2-10. Cannabis Processing Facility Agents.**

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

**R66-2-11. Minimum Storage and Handling Requirements.**

- (1) A cannabis processing facility shall store cannabis, cannabis concentrate, or cannabis product in a location separated by a physical barrier from outdated, damaged, deteriorated, misbranded, or adulterated product or product whose containers or packaging have been opened or breached.
- (2) Cannabis, cannabis concentrate, and cannabis product shall be stored at least six inches off the ground.
- (3) Storage areas shall:
  - (a) be maintained in a clean and orderly condition; and
  - (b) be free from infestation by insects, rodents, birds, or vermin.
- (4) A cannabis processing facility shall:
  - (a) track and label each cannabis plant product and cannabis concentrate;
  - (b) ensure each unfinished product is stored in a secure location; and
  - (c) immediately after completion of the process or at the end of the scheduled business day return to a secure location.
- (5) Cannabis shall be stored away from other chemicals, lubricants, pesticides, or other potential contaminants.
- (6) If a manufacturing process cannot be completed at the end of a working day, the processor shall securely lock the processing area or tanks, vessels, bins, or bulk containers containing cannabis inside an area or room that affords adequate security.

**R66-2-12. Product Appearance and Flavor.**

- (1) A cannabis processing facility may not produce a cannabis product that is designed to mimic a candy product.
- (2) A cannabis processing facility may not shape a cannabis product in any way to appeal to children.

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

- (1) A cannabis processing facility shall process, manufacture, package, and label cannabis and cannabis product in accordance with 21 CFR 111, "Current Good Manufacturing, Packaging, Labeling, or Holding Operation for Dietary Supplements."
- (2) Cannabis and cannabis product shall be packaged in child-resistant packaging in accordance with 16 CFR 1700.
- (3) A cannabis processing facility shall package cannabis or cannabis product in accordance with this rule and Section 4-41a-602 before transportation to a medical cannabis pharmacy.
- (4) Any container or packaging containing cannabis or cannabis product shall protect the product from contamination and may not impart any toxic or deleterious substance to the cannabis or cannabis product.
- (5) Cannabis cultivation byproduct shall either be:
  - (a) chemically or physically processed to produce a cannabis concentrate for incorporation into cannabis derivative product; or
  - (b) destroyed according to Section 4-41a-405.
- (6) Cannabis concentrate and product produced by cannabis processing facilities shall be tested pursuant to Rule ~~[R68-29]~~R66-3.
- (7) If a cannabis product contains artificially derived cannabinoids they shall be isolated to a purity of greater than 95%, as required by Subsection 4-41a-603(3).
- (8) A cannabis product may vary in the cannabis product's labeled cannabinoid profile by up to 10% of the indicated amount of a given cannabinoid, by weight.

**R66-2-14. Irradiation of Cannabis.**

- (1) A cannabis processor may use methods of irradiation for remediation of cannabis if:
  - (a) the method is approved in their operating plan, which includes:
    - (i) type of radiation or ionizing energy source;
    - (ii) equipment; and
    - (iii) documentation of state approval by the Utah Department of Environmental Quality;
  - (b) the product has failed quality assurance testing for microbials; and

NOTICES OF PROPOSED RULES

- (c) the processor has submitted and received approval for remediation to use radiation
- (2) Batches or lots of cannabis remediated by radiation shall be noted in the inventory control system, and each container of the batch or lot shall be stickered with the radura symbol until the batch is completely used or destroyed.
- (3) The processor shall maintain records required by this section for three years after the final disposition of the irradiated cannabis, and shall make the records available for inspection and copy by the department. Records shall include:
  - (a) the cannabis batch treated;
  - (b) lot identification;
  - (c) approved operating plan and evidence of compliance with the operating plan;
  - (d) ionizing energy source;
  - (e) source calibration;
  - (f) dosimetry;
  - (g) dose distribution in the product;
  - (h) the date of irradiation;
  - (i) final products that were made by the irradiated cannabis; and
  - (j) pharmacies the product was sent to.
- (4) The label of a cannabis product that contains irradiated cannabis shall display:
  - (a) the radura symbol; and
  - (b) the statement: "Treated with radiation" in text as prominent as the ingredients.
- (5) The radura symbol and statement shall be placed prominently and conspicuously on the label.
- (6) Processors shall notify a pharmacy that the product has been irradiated before purchase.

**R66-2-1[4]5. Labeling and Packaging of Cannabis and Cannabis Product.**

- (1) Cannabis product labeling shall contain the following information:
  - (a) the medicinal dosage form identified on the product face along with the words "THC or Cannabis Infused";
  - (i) "gummies" may be used instead of "gelatinous cube";
  - (ii) "tincture" may be used instead of "sublingual preparation" or "liquid suspension"; and
  - (iii) a descriptive product name is allowed if the text is smaller than the dosage form and is not appealing to children;
  - (b) the name and license number of the cannabis processing facility;
  - (c) directions for consumers to contact the department with product complaints by going to [medicalcannabis.utah.gov/production](http://medicalcannabis.utah.gov/production);
  - (d) for products containing THC, a warning symbol provided by the department; and
  - (e) the amount of total THC contained in the package, in milligrams.
- (2) Before January 1, 2024, cannabis product labeling shall contain the following warning: "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a recommending medical provider."
- (3) Starting on January 1, 2024, cannabis product labeling shall contain the following warning: "WARNING: Cannabis has intoxicating effects, may be addictive, and may increase risk of mental illness. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a recommending medical provider."
- (4) ~~Starting on May 3, 2023, raw~~ Raw cannabis or a cannabis product sold in a vaporizer cartridge shall include a warning label that states:
  - (a) "WARNING: Vaping of cannabis-derived products has been associated with lung injury."; and
  - (b) "WARNING: Inhalation of cannabis smoke has been associated with lung injury."
- (5) A cannabis processing facility may include a QR code on the cannabis product labeling that links to a COA from a licensed independent cannabis testing laboratory. The QR code may not link to any other information.
- (6) Any information appearing on the cannabis product labeling shall be:
  - (a) displayed in any legible font, that is not a script or decorative font, provided that the lowercase letter "o" is at least one-sixteenth inch in height;
  - (b) displayed in a color that contrasts conspicuously with its background; and
  - (c) displayed in English, although a licensee may also choose to display required information in additional languages.
- (7) A cannabis processing facility shall place a cannabis fact panel on a cannabis product before the sale of the cannabis product to a medical cannabis pharmacy.
- (8) The cannabis fact panel shall be printed in black and white.
- (9) The cannabis fact panel shall be securely affixed to the package.
- (10) The cannabis fact panel for cannabis plant product shall include the following information, from top to bottom, in the order as listed:
  - (a) the name of the cannabis cultivation facility;
  - (b) the lot number;
  - (c) the date of harvest;
  - (d) the date of final testing;
  - (e) the batch number;
  - (f) the date on which the product was packaged;
  - (g) the quantity of any cannabinoid listed as present on the COA that is greater than 1% of total cannabinoids;
  - (h) the expiration date; and

- (i) the net weight displayed in grams.
- (11) THC potency levels for cannabis flower shall be listed as total THC in milligrams per gram.
- (12) The cannabis fact panel for cannabis derivative product shall include the following information, from top to bottom, in the order

listed:

- (a) the batch number;
- (b) the date of the final testing;
- (c) the date on which the product was packaged;
- (d) for products intended to be ingested, the amount of total THC and any advertised cannabinoid in milligrams per serving;
- (e) the quantity of any cannabinoid listed as present on the COA that is greater than 1% of total cannabinoids;
- (f) the expiration date;
- (g) the total amount of THC measured in milligrams per gram;
- (h) a list of each ingredient and each major food allergen as identified in 21 U.S.C. 343;
- (i) the identity of any artificially derived cannabinoid present in the product;
- (j) the net weight of the product displayed in grams or milliliters and number of pieces, if applicable; and
- (k) a disclosure of the type of extraction process used and any solvent, gas, or other chemical used in the extraction process.

(13) A cannabis processing facility may include a QR code affixed to the product that is scannable for inventory control at the pharmacy. The QR code may not link to any other information.

(1[3]4) The label of a cannabis derivative product may include a flavor name if it is not candy-like or a name the facility knows or should know appeals to children.

(1[4]5) The label of a cannabis product that contains an artificially derived cannabinoid shall clearly display the following text: "This product contains artificially derived cannabinoids."

(1[5]6) Any terpene listed on a cannabis product package shall be verified as present by a licensed independent cannabis testing laboratory and have its quantity listed on the fact panel.

(1[6]7) A cannabis processing facility may include a logo and product brand name on the cannabis product face that is exempt from the requirements of Subsection ~~[R66-2-13(3)]~~ [R66-2-15(6)] and that:

- (a) does not exceed 20% of the product face;
- (b) does not obscure the information required on the label; and
- (c) does not include:
  - (i) unprofessional terms, slang, phrasing, or verbiage associated with the recreational use of cannabis;
  - (ii) any image bearing resemblance to a cartoon character or fictional character whose target audience is children or minors;
  - (iii) content, symbol, or imagery that the cannabis processing facility knows or should know appeals to children;
  - (iv) imagery featuring a person using the product in any way;
  - (v) any recreationally oriented subject; or
  - (vi) any statement, design, or representation, picture, or illustration that is obscene or indecent.

(1[7]8) No other information, illustration, or depiction with the exception of directions for use or an item required by state law shall appear on the labeling.

(1[8]9) Shapes on cannabis product packaging or labeling may not resemble the product or real-world items.

(~~1[9]20~~) After January 1, 2023, cannabis product packaging, logos, and brand names shall be pre-approved by the department.

**R66-2-1[5]6. Transportation.**

- (1) A printed transport manifest shall accompany each transport of cannabis.
- (2) The manifest shall contain the following information:
  - (a) the cannabis production establishment address and license number of the departure location;
  - (b) physical address and license number of the receiving location;
  - (c) strain name, quantities by weight, and unique identification numbers of each cannabis material to be transported;
  - (d) date and time of departure;
  - (e) estimated date and time of arrival; and
  - (f) name and signature of each agent accompanying the cannabis.
- (3) The transport manifest may not be voided or changed after departing from the original cannabis production establishment.
- (4) A copy of the transport manifest shall be given to the receiving cannabis production establishment or medical cannabis pharmacy.
- (5) The receiving cannabis processing facility, independent laboratory, or medical cannabis pharmacy shall ensure that the cannabis

material received is as described in the transport manifest and shall:

- (a) record the amounts received for each strain into the inventory control system; and
- (b) document any differences between the quantity specified in the transport manifest and the quantities received in the inventory control system.
- (6) During transportation, cannabis shall be:
  - (a) shielded from the public view;
  - (b) secured; and
  - (c) temperature controlled if perishable.
- (7) A cannabis production facility shall contact the department within 24 hours if a vehicle transporting cannabis is involved in an accident that involves product loss.
- (8) Only the registered agents of the cannabis processing facility may occupy a transporting vehicle.

**R66-2-1[6]7. Recall Protocol.**

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

**R66-2-1[7]8. Cannabis Waste Disposal.**

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

**R66-2-1[8]9. Change in Operation Plans.**

- (1) A cannabis processing facility shall submit a notice, on a form provided by the department, before making any changes to the facility's operating plan, including:
  - (a) ownership or financial backing of the facility;
  - (b) the facility's name;
  - (c) a change in location;
  - (d) any modification, remodeling, expansion, reduction or physical, non-cosmetic alteration of a facility;
  - (e) change to the number of production lines; or
  - (f) any information requested by the department that shall allow the department to determine if requirements will be met.
- (2) A cannabis processing facility may not implement changes to the initial approved operation plan without board approval.
- (3) The board shall approve of requested changes unless approval would lead to a violation of the applicable laws and rules of the state.
- (4) The department shall specify the reason for the denial of approval for a change to the operation plan.

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

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

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

**R66-2-~~19~~20. Renewals.**

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

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

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

**R66-2-21. Targeted Marketing.**

(1) A medical cannabis processor may engage in targeted marketing of the processor's medical cannabis product, medical cannabis brand, or a medical cannabis device pursuant to Section 4-41a-604.

(2) Targeted marketing may not:

(a) include deceptive, false or misleading statements;

(b) contain any health-related statement that is untrue or tends to create a misleading impression as to the effects on health of cannabis consumption;

(c) promote excessive consumption;

(d) contain a statement, design, illustration, picture, or representation that:

(i) encourages or represents the recreational use of cannabis;

(ii) displays the use of cannabis, including the consumption, smoking, or vaping of cannabis;

(iii) encourages or promotes cannabis for use as an intoxicant;

(iv) is obscene or indecent;

(e) include any image designed or likely to appeal to children, such as:

(i) cartoons;

(ii) toys;

(iii) animals;

(iv) children; or

(v) any other likeness to images, characters, or phrases that are popularly used to advertise to children;

(f) contain any language or imagery that is likely to mislead patients to believe that the medical cannabis product has been endorsed, made, or used by the state or any of its representatives, except where specifically authorized; or

(g) display medical cannabis products or images of products where the advertisement is visible to members of the public.

(3) Targeted marketing shall accurately and legibly identify the medical cannabis processor responsible for its content and include a statement that cannabis products are for use by patients only.

(4) Any targeted marketing for medical cannabis products that is related to the benefits, safety, or efficacy of the product, including therapeutic or medical claims, shall:

(a) be supported by substantial, current clinical evidence or data; and

(b) include information on side effects or risks associated with the use of cannabis.

(5) A medical cannabis processor may have a link on their website to allow individuals to sign up to receive targeted marketing electronically.

**R66-2-2~~0~~2. Violation Categories.**

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

(a) cannabis sold to an unlicensed source;

(b) cannabis purchased from an unlicensed source;

(c) refusal to allow inspection;

(d) failure to comply with testing requirements;

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

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

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

(h) unauthorized personnel on the premises;

(i) permitting criminal conduct on the premises;

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

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

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

NOTICES OF PROPOSED RULES

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

- (a) failure to maintain alarm and security systems;
- (b) failure to keep and maintain records for at least two years;
- (c) failure to maintain traceability;
- (d) failure to follow transportation requirements;
- (e) failure to follow the waste and disposal requirements;
- (f) failure to maintain separation between cannabis and hemp;
- (g) failure to follow labeling and packaging requirements;
- (h) failure to meet extraction requirements;
- (i) distributing a final cannabis product with a weight that is lower than the net weight listed on the cannabis fact panel;
- (j) engaging in or permitting a violation of Title 4, Chapter 41a, Cannabis Production Establishments or this rule which amounts to

a regulatory violation as described in this subsection; or

- (k) failure to maintain standardized scales.

(3) Licensing Violations: \$500- \$5,000 per violation. This category is for violations involving licensing requirements including:

- (a) an unauthorized change to the operating plan;
- (b) failure to notify the department of changes to the operating plan;
- (c) failure to notify the department of changes to financial or voting interests of greater than 2%;
- (d) failure to follow the operating plan as approved by the department;
- (e) engaging in or permitting a violation of this rule or Title 4, Chapter 41a, Cannabis Production Establishments which amounts to

a licensing violation as described in this subsection; or

- (f) failure to respond to violations.

(4) The department shall calculate penalties based on the level of violation and the adverse effect or potential adverse effect at the time of the incidents giving rise to the violation.

- (5) The department may enhance or reduce the penalty based on the seriousness of the violation.

**KEY: cannabis processing, cannabis production establishment**

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

**Authorizing, and Implemented or Interpreted Law:** 4-41a-103(5); 4-41a-404(3); 4-41a-701(3); 4-41a-302(3)(b)(ii); 4-2-103(1)(i); 4-41a-405(2)(b)(iv); 4-41a-801(1)

**NOTICE OF SUBSTANTIVE CHANGE**

**TYPE OF FILING:** Amendment

**Rule or Section Number:** R66-3 **Filing ID:** 56712

**Agency Information**

<b>1. Title catchline:</b>	Agriculture and Food, Medical Cannabis and Industrial Hemp	
<b>Building:</b>	TSOB South Bldg, Floor 2	
<b>Street address:</b>	4315 S 2700 W	
<b>City, state:</b>	Taylorsville, UT 84129	
<b>Mailing address:</b>	PO Box 146500	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6500	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amber Brown	385-245-5222	ambermbrown@utah.gov
Brandon Forsyth	801-710-9945	bforsyth@utah.gov
Kelly Pehrson	385-977-2145	kwpehrson@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R66-3. Quality Assurance Testing on Cannabis



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

Changes are needed to update this rule to have consistent references following the movement of all cannabis rules to Title R66. Additionally, clarifications are needed to microbial testing standards in Table 4 to be consistent with current industry best practices and to reference suppository products consistent with current statute. Based on industry feedback vape products, clarification is needed to the definition of final product in Section R66-3-2.

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

In Section R66-3-2, the definition of "final product" has been clarified so that vapes would be considered a final product in a sealed cartridge rather than in their final packaged form. Clarifications have been made to Table 4 to update microbial testing requirements to be consistent with current industry best practices and add suppository products and associated standards to accommodate the addition of suppository products as a medical dosage form in S.B. 233 during the 2024 General Session. Additional changes have been made throughout this rule to remove references to Title R68 and replaces them with correct references to R66, consistent with the Department of Agriculture and Food (Department) recently moving all cannabis rules to Title R66.

**Fiscal Information**

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

**A) State budget:**

There is no impact to the state budget. The testing changes will not change the costs to the Department lab. Other changes are clarifying or nonsubstantive.

**B) Local governments:**

Local governments do not participate in the medical cannabis program and will not be impacted by the changes.

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

Small businesses will not be impacted. The testing changes do no increase or decrease the cost of required testing.

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

Non-small businesses will not be impacted. The testing changes do no increase or decrease the cost of required testing.

**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 cannabis program and will not be impacted.

**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. Testing costs remain the same.

**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

NOTICES OF PROPOSED RULES

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

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

**Citation Information**

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

Section 4-41a-701		
-------------------	--	--

**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:** 10/01/2024

**9. This rule change MAY become effective on:** 10/08/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Craig W Buttars, Commissioner	<b>Date:</b>	08/12/2024
---	-------------------------------	--------------	------------

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

**R66-3. Quality Assurance Testing on Cannabis.**

**R66-3-1. Authority and Purpose.**

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

**R66-3-2. Definitions.**

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

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

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

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

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

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

or

- (ii) a cannabinoid that is produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst.
- (4) "Batch" means a quantity of:
- (a) cannabis concentrate produced on a particular date and time, following clean up until the next clean up during which the same lots of cannabis are used;
- (b) cannabis product produced on a particular date and time, following clean up until the next clean up during which cannabis concentrate is used; or
- (c) cannabis flower from a single strain and growing cycle packaged on a particular date and time, following clean up until the next clean up during which lots of cannabis are being used.
- (5) "Cannabinoid" means any:
- (a) naturally occurring derivative of cannabigerolic acid (CAS 25555-57-1); or
- (b) any chemical compound that is both structurally and chemically similar to a derivative of cannabigerolic acid.
- (6) "Cannabis" means any part of the marijuana plant.
- (7) "Cannabinoid concentrate" means:
- (a) the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass; or
- (b) any amount of a natural or artificially derived cannabinoid.
- (8) "Cannabis cultivation facility" means a person that:
- (a) possesses cannabis;
- (b) grows or intends to grow cannabis; and
- (c) sells or intends to sell cannabis to a cannabis cultivation facility or a cannabis processing facility.
- (9) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.
- (10) "Cannabis derivative product" means a cannabis product made using cannabis concentrate.
- (11) "Cannabinoid isolate" means a concentrated form of cannabinoid with less than a 0.3% combined concentration of THC or any THC analog that is intended for use as an ingredient in a cannabinoid product but is not grown by a Utah licensed cannabis cultivation facility.
- (12) "Cannabis plant product" means any portion of a cannabis plant intended to be sold in a form that is recognizable as a portion of a cannabis plant.
- (13) "Cannabis processing facility" means a person that:
- (a) acquires or intends to acquire cannabis from a cannabis production establishment;
- (b) possesses cannabis with the intent to manufacture a cannabis product;
- (c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or cannabis concentrate; and
- (d) sells or intends to sell a cannabis product to a medical cannabis pharmacy.
- (14) "Cannabis product" means a product that:
- (a) is intended for human use; and
- (b) contains cannabis or delta 9-tetrahydrocannabinol.
- (15) "CBD" means cannabidiol (CAS 13956-29-1).
- (16) "CBDA" means cannabidiolic acid, (CAS 1244-58-2).
- (17) "Certificate of analysis" (COA) means a document produced by a testing laboratory listing the quantities of the various analytes for the performed testing.
- (18) "Delta-9-tetrahydrocannabinol" or "delta-9-THC" means the cannabinoid identified as CAS #1972-08-03, the primary psychotropic cannabinoid in cannabis.
- (19) "Department" means the Utah Department of Agriculture and Food.
- (20) "Final product" means a reasonably homogenous cannabis product created using the same standard operating procedures and the same formulation:
- (a) in its final packaged form; or
- (b) for vapes, in the sealed vape cartridge. [~~created using the same standard operating procedures and the same formulation.~~]
- (21) "Foreign matter" means:
- (a) any matter that is present in a cannabis lot that is not a part of the cannabis plant; or
- (b) any matter that is present in a cannabis or cannabinoid product that is not listed as an ingredient, including seeds.
- (22) "Industrial hemp" means a cannabis plant that contains less than 0.3% total THC by dry weight.
- (23) "Lot" means the quantity of:
- (a) flower from a single strain of cannabis and growing cycle produced on a particular date and time, following clean up until the next clean up during which the same materials are used; or
- (b) trim, leaves, or other plant matter from cannabis plants produced on a particular date and time, following clean up until the next clean up.
- (24) "Pest" means:
- (a) any insect, rodent, nematode, fungus, weed; or
- (b) any other form of terrestrial or aquatic plant or animal life, virus, bacteria, or other microorganisms that are injurious to health or to the environment or that the department declares to be a pest.
- (25) "Pesticide" means any:

NOTICES OF PROPOSED RULES

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

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

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

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

(a) an employee of the department;

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

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

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

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

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

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

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

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

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

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

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

**R66-3-3. Required Cannabis, Cannabis Product, and Cannabinoid Isolate Tests.**

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

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

(a) the water activity of the sample;

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

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

(3) Required testing shall be performed either:

(a) before the transfer of the cannabis plant product to a cannabis processing facility; or

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

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

(5) Cannabis cultivation byproduct shall either be:

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

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

(6) Cannabis concentrate shall be tested by an independent cannabis testing laboratory before it is incorporated into a cannabis derivative product to determine:

(a) the cannabinoid profile; and

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

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

(8) Before the transfer of a cannabis product to a medical cannabis pharmacy an independent cannabis testing laboratory shall test a representative sample of the product to determine:

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

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

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

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

(10) The department may require mycotoxin testing of a cannabis plant product or cannabis product if they have reason to believe that mycotoxins may be present.

(11) Mycotoxin testing shall be required for cannabis concentrate.

(12) A cannabis processing facility may remediate a cannabis plant product, cannabis concentrate, or cannabis product that fails any of the required adulterant testing standards after submitting and gaining approval for a remediation plan from the department.

(13) A remediation plan shall be submitted to the department within 15 days of the receipt of a failed testing result.

(14) A remediation plan shall be carried out and the cannabis plant product or cannabis concentrate shall be prepared for resampling within 60 days of department approval of the remediation plan.

(15) Resampling or retesting of a cannabis lot or batch that fails any of the required testing standards is not allowed until the lot or batch has been remediated.

(16) A cannabis lot or cannabis product batch that is not or cannot be remediated in the specified time shall be destroyed pursuant to Section 4-41a-405.

(17) If test results cannot be retained in the Inventory Control System, the laboratory shall:

- (a) keep a record of test results;
- (b) issue a COA for required tests; and
- (c) keep a copy of the COA on the laboratory premises.

(18) Cannabinoid isolate shall be tested for:

- (a) solvents;
- (b) pesticides;
- (c) microbials;
- (d) heavy metals; and
- (e) mycotoxins.

(19) Cannabinoid isolate shall be accompanied by a COA that complies with the standards included in Section ~~R68-29-5 through Section R68-29-12~~R66-3-5 through Section R66-3-12.

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

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

**~~R68-29~~R66-3-4. Sampling Cannabis and Cannabis Products.**

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

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

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

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

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

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

- (a) use sterile gloves, instruments, and a glass or plastic container to collect the sample;
- (b) place tamper proof tape on the container; and
- (c) appropriately label the sample pursuant to Section ~~R68-30-6~~R66-4-6.

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

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

NOTICES OF PROPOSED RULES

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

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

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

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

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

**R66-3-5. Moisture Content Testing and Water Activity Standards.**

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

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

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

**R66-3-6. Foreign Matter Standards.**

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

- (1) the sample contains foreign matter visible to the unaided human eye;
- (2) the sample is found to contain microscopic foreign matter considered to be harmful or estimated to comprise greater than 3% of the mass of the representative sample as determined by the testing laboratory; or
- (3) foreign matter is found that is suspected of having been intentionally added to the sample to increase its visual appeal or market value; or
- (4) for a cannabis plant product, the total number of seeds found is greater than the net weight of the sample collected divided by 1.75.

**R66-3-7. Potency Testing.**

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

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

- (a) it is not analyzed for each of the analytes listed in Table 2;
- (b) the determined amount of any analyte exceeds its action level given in Table 2;
- (c) any tetrahydrocannabinol acetate (THC-OAc) is found in a cannabis concentrate with a relative peak area greater than 1% of the total cannabinoid peak area or in a cannabis product with a relative peak area greater than 0.5% of the total cannabinoid peak area as determined by high-performance liquid chromatography with a diode array detector;
- (d) any of the artificially derived cannabinoids listed in Table 3 are found to have a peak area greater than 1% of total cannabinoid peak area as determined by high-performance liquid chromatography with a diode array detector (HPLC-DAD); or
- (e) greater than 10% of the total cannabinoid peak area is comprised of unknown cannabinoids after peaks smaller than 1% of the total peak area have been excluded as determined by high-performance liquid chromatography with a diode array detector (HPLC-DAD).

TABLE 2 Cannabinoid Components and Action Levels		
Analyte	Chemical Abstract Service	Action Level
Δ9-Tetrahydrocannabinidiol (Δ9-THC)	1972-08-03	No Limit
Δ8-Tetrahydrocannabinidiol (Δ8-THC)	5957-75-5	No Limit
Δ9-Tetrahydrocannabinolic acid (THCA)	23978-85-0	No Limit
Δ9-Tetrahydrocannabivarin (THCV)	31262-37-0	No Limit
Cannabidiol (CBD)	13956-29-1	No Limit

Cannabidiolic acid (CBDA)	1244-58-2	No Limit
Cannabidivarin (CBDV)	24274-48-4	No Limit
Cannabinol (CBN)	521-35-7	No Limit
Cannabigerol (CBG)	25654-31-3	No Limit
Cannabichromene (CBC)	20675-51-8	No Limit
Cannabigerolic acid (CBGA)	25555-57-1	No Limit
Cannabichromenic acid (CBCA)	20408-52-0	No Limit
9R- $\Delta$ 6a,10a-Tetrahydrocannabinidiol ( $\Delta$ 3-THC)	95720-01-7	1% <sup>1</sup>
9S- $\Delta$ 6a,10a-Tetrahydrocannabinidiol ( $\Delta$ 3-THC)	95720-02-8	1% <sup>1</sup>
(6aR,9R)- $\Delta$ 10-Tetrahydrocannabinidiol	95543-62-7	1% <sup>1</sup>
((6aR,9S)- $\Delta$ 10-Tetrahydrocannabinidiol	95588-87-7	1% <sup>1</sup>
Cannabicitran (CBTC)	31508-71-1	2%

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

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

**R66-3-8. Microbial Standards.**

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

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

TABLE 4 Microbial Analytes and Action Levels	
Material	Microbial Limit Requirement [ <del>(cfu/g or cfu/ml)</del> ]
Cannabis Plant Product	Total Aerobic Microbial Count $\leq$ 100,000 <u>cfu/g</u> <u>Not detected in 1g:</u> <del>[Absence of E. Coli and]</del> Salmonella spp., STEC, <del>[Absence of]</del> Aspergillus fumigatus, Aspergillus flavus, Aspergillus niger, and Aspergillus terreus

NOTICES OF PROPOSED RULES

Cannabinoid Concentrate	Total Aerobic Microbial Count ≤10,000 <u>cfu/g</u> Total Combined Yeast and Mold Count ≤1,000 <u>cfu/g</u> <u>Not detectable in 1g:</u> <del>[Absence of]</del> STEC <sub>2</sub> <del>[Absence of Pseudomonas</del> <del>Absence of Staph]</del> Salmonella spp., Aspergillus fumigatus, Aspergillus flavus, Aspergillus niger, and Aspergillus terreus
<del>[Orally Consumable Products]</del> Infused Edible Products	Total Aerobic Microbial Count ≤10,000 <u>cfu/g</u> Total Combined Yeast and Mold Count ≤1,000 <u>cfu/g</u> <u>Not detectable in 1g:</u> <del>[Absence of E. Coli and]</del> STEC, Salmonella spp. <del>[Absence of Staph]</del>
<del>[Transdermal Products]</del> Infused Non-edible Products	Total Aerobic Microbial Count ≤250 <u>cfu/g</u> Total Yeast and Mold Count ≤250 <u>cfu/g</u> <u>Not detectable in 1g:</u> <del>[Absence of]</del> Pseudomonas aeruginosa, Staphylococcus aureus <del>[Absence of Staph]</del>
Infused Suppository Products	Total Aerobic Microbial Count ≤10,000 <u>cfu/g</u> Total Combined Yeast and Mold Count ≤1,000 <u>cfu/g</u> <u>Not detectable in 1 g:</u> STEC, Salmonella spp., Pseudomonas, Staphylococcus aureus

**R66-3-9. Pesticide Standards.**

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

(2) If an independent cannabis laboratory identifies a pesticide that is not allowed under Subsection ~~[R68-29-5(1)]~~R66-3-9(1) and is above the action levels provided in Subsection ~~[R68-29-5(3)]~~R66-3-9(3) that lot or batch from which the sample was taken has failed quality assurance testing.

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

Analyte	Chemical Abstract Service (CAS) Registry number	Action Level ppm
Abamectin	71751-41-2	0.5
Acephate	30560-19-1	0.4
Acequinocyl	57960-19-7	2
Acetamiprid	135410-20-7	0.2
Aldicarb	116-06-3	0.4
Azoxystrobin	131860-33-8	0.2
Bifenazate	149877-41-8	0.2
Bifenthrin	82657-04-3	0.2
Boscalid	188425-85-6	0.4
Carbaryl	63-25-2	0.2
Carbofuran	1563-66-2	0.2
Chlorantraniliprole	500008-45-7	0.2
Chlorfenapyr	122453-73-0	1
Chlorpyrifos	2921-88-2	0.2
Clofentezine	74115-24-5	0.2
<u>Cyfluthrin</u>	<u>68359-37-5</u>	<u>1</u>
Cypermethrin	52315-07-8	1



Daminozide	1596-84-5	1
DDVP (Dichlorvos)	62-73-7	0.1
Diazinon	333-41-5	0.2
Dimethoate	60-51-5	0.2
Ethoprophos	13194-48-4	0.2
Etofenprox	80844-07-1	0.4
Etoxazole	153233-91-1	0.2
Fenoxycarb	72490-01-8	0.2
Fenpyroximate	134098-61-6	0.4
Fipronil	120068-37-3	0.4
Flonicamid	158062-67-0	1
Fludioxonil	131341-86-1	0.4
Hexythiazox	78587-05-0	1
Imazalil	35554-44-0	0.2
Imidacloprid	138261-41-3	0.4
Kresoxim-methyl	143390-89-0	0.4
Malathion	143390-89-0	0.2
Metalaxyl	57837-19-1	0.2
Methiocarb	2032-65-7	0.2
Methomyl	16752-77-5	0.4
Methyl parathion	298-00-0	0.2
MGK-264	113-48-4	0.2
Myclobutanil	88671-89-0	0.2
Naled	300-76-5	0.5
Oxamyl	23135-22-0	1
Paclobutrazol	76738-62-0	0.4
Permethrins	52645-53-1	0.2
Phosmet	732-11-6	0.2
Piperonyl_butoxide	51-03-6	2
Prallethrin	23031-36-9	0.2
Propiconazole	60207-90-1	0.4
Propoxur	114-26-1	0.2
Pyrethrins	8003-34-7	1
Pyridaben	96489-71-3	0.2
Spinosad	168316-95-8	0.2
Spiromesifen	283594-90-1	0.2
Spirotetramat	203313-25-1	0.2
Spiroxamine	118134-30-8	0.4
Tebuconazole	80443-41-0	0.4
Thiacloprid	111988-49-9	0.2
Thiamethoxam	153719-23-4	0.2
Trifloxystrobin	141517-21-7	0.2

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

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

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

NOTICES OF PROPOSED RULES

**R66-3-10. Residual Solvent Standards.**

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

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

TABLE 6 List of Solvents and Action Levels		
Solvent	Chemical Abstract Service (CAS) Registry number	Action level ppm
1,2 Dimethoxyethane	110-71-4	100
1,4 Dioxane	123-9	380
1-Butanol	71-36-3	5,000
1-Pentanol	71-41-0	5,000
1-Propanol	71-23-8	5,000
2-Butanol	78-92-2	5,000
2-Butanone	78-93-3	5,000
2-Ethoxyethanol	110-80-5	160
2-methylbutane	78-78-4	5,000
2-Propanol (IPA)	67-63-0	5,000
Acetone	67-64-1	5,000
Acetonitrile	75-05-8	410
Benzene	71-43-2	2
Butane	106-97-8	5,000
Cumene	98-82-8	70
Cyclohexane	110-82-7	3,880
Dichloromethane	75-09-2	600
2,2-dimethylbutane	75-83-2	290
2,3-dimethylbutane	79-29-8	290
1,2-dimethylbenzene	95-47-6	See Xylenes
1,3-dimethylbenzene	108-38-3	See Xylenes
1,4-dimethylbenzene	106-42-3	See Xylenes
Dimethyl sulfoxide	67-68-5	5,000
Ethanol	64-17-5	5,000
Ethyl acetate	141-78-6	5,000
Ethylbenzene	100-41-4	See Xylenes
Ethyl ether	60-29-7	5,000
Ethylene glycol	107-21-1	620
Ethylene Oxide	75-21-8	50
Heptane	142-82-5	5,000
n-Hexane	110-54-3	290
Isopropyl acetate	290	5,000
Methanol	67-56-1	3,000

Methylpropane	75-28-5	5,000
2-Methylpentane	107-83-5	290
3-Methylpentane	96-14-0	290
N,N-dimethylacetamide	127-19-5	1,090
N,N-dimethylformamide	68-12-2	880
Pentane	109-66-0	5,000
Propane	74-98-6	5,000
Pyridine	110-86-1	100
Sulfolane	126-33-0	160
Tetrahydrofuran	109-99-9	720
Toluene	108-88-3	890
Xylenes	1330-20-7	2,170

- (2) Xylenes is a combination of the following:
- (a) 1,2-dimethylbenzene;
  - (b) 1,3-dimethylbenzene;
  - (c) 1,4-dimethylbenzene; and
  - (d) ethyl benzene.

**R66-3-11. Heavy Metal Standards.**

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

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

**R66-3-12. Mycotoxin Standards.**

A sample and related lot or batch of cannabis plant product, cannabis concentrate, or cannabis product fail quality assurance testing for mycotoxin if the results exceed the limits provided in Table 8.

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

**KEY: cannabis testing, quality assurance, cannabis laboratory**

**Date of Last Change: ~~May 28, 2024~~ 2024**

**Authorizing, and Implemented or Interpreted Law: 4-41a-701(3)**

!NOTICE OF SUBSTANTIVE CHANGE		
<b>TYPE OF FILING:</b> Amendment		
<b>Rule or Section Number:</b>	<b>R277-110</b>	<b>Filing ID: 56715</b>

**Agency Information**

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

**General Information**

<b>2. Rule or section catchline:</b>
R277-110. Educator Salary Adjustment
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being amended in order to make updates related to the educator salary adjustment.
<b>4. Summary of the new rule or change:</b>
The amendments specifically add an oversight category, update deadlines for data that the salary adjustment is based on and clarify how an educator's evaluations affect the adjustment.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This rule change is not expected to have fiscal impacts on state government revenues or expenditures.
The oversight framework categorization is part of the Utah State Board of Education's (USBE) effort through Rule R277-111 to categorize each rule into an oversight framework category, or to delineate for stakeholders what type of monitoring or oversight is required by USBE resulting from the rule.
This categorization does not add any requirements or resources in and of itself. The changes to move up a deadline for Local Education Agency (LEA) educator data submissions to meet requirements from intent language in H.B. 3 from the 2924 General Session.
USBE believes that the fiscal impacts have been captured in the fiscal note to H.B. 3 and there are no additional costs for USBE or LEAs.
<b>B) Local governments:</b>
This rule change is not expected to have fiscal impacts on local government's revenues or expenditures.
The oversight framework categorization is part of the USBE effort through Rule R277-111 to categorize each rule into an oversight framework category, or to delineate for stakeholders what type of monitoring or oversight is required by USBE resulting from the rule.

This categorization does not add any requirements or resources in and of itself. The changes to move up a deadline for LEA educator data submissions to meet requirements from intent language in H.B. 3 (2024).

USBE believes that the fiscal impacts have been captured in the fiscal note to H.B. 3 (2024). and there are no additional costs for USBE or LEAs.

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

This rule change is not expected to have fiscal impacts on small businesses' revenues or expenditures. This only impacts USBE and LEAs.

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

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

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

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

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

There are no compliance costs for affected persons. There are no compliance costs for USBE or LEAs to move up the educator census date.

USBE believes any costs were captured in the fiscal note to House Bill 3 from the 2024 session.

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this 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:**

Article X, Section 3	Subsection 53E-3-401(4)	Subsection 53F-2-405(5)
----------------------	-------------------------	-------------------------

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	10/01/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	10/08/2024
---	------------

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	08/15/2024
---	--	--------------	------------

**R277. Education, Administration.**

**R277-110. Educator Salary Adjustment.**

**R277-110-1. Authority, ~~and~~ Purpose, and Oversight Category.**

(1) This rule is authorized by:

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

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

(c) Subsection 53F-2-405(5), which authorizes the Board to make rules to administer the educator salary adjustment program.

(2) The purpose of this rule is to outline a consistent method for enacting educator salary adjustments in accordance with Section 53F-2-405.

(3) This Rule R277-110 is categorized as Category 2 as described in Rule R277-111.

**R277-110-2. Definitions.**

(1) "Educator" has the same meaning as defined in Subsection 53F-2-405(1).

(2) "Educator Salary Adjustment" or "Adjustment" means funds allocated by the Board to an LEA in accordance with Subsection 53F-2-405(3).

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

(4) "USIMS" has the same meaning as defined in Subsection R277-312-2(6).

**R277-110-3. Procedures.**

(1) An LEA shall:

(a)(i) have employee evaluation procedures consistent with Title 53G, Chapter 11, Part 5, School District and Utah Schools for the Deaf and the Blind Employee Requirements; or

(ii) if an LEA is exempt from the requirements of Subsection (1)(a)(i), have employee evaluation procedures in place to receive funds under Section 53F-2-405;

(b) put the adjustment appropriation into the LEA's salary schedule each year that funds are appropriated by the Legislature;

(c) ensure the amount of the adjustment is the same for each eligible full-time-equivalent educator position in the LEA;

(d) ensure that each eligible employee who is not a full-time educator receives a proportional salary adjustment based on the number of hours the employee works in the employee's current assignment as an educator; and

(e) ensure that each educator who receives an adjustment has not received an unsatisfactory rating on ~~any of~~ the educator's three most recent evaluations as described in Subsection 53F-2-405(4)(c).

(2) Notwithstanding Subsection (1)(e), an LEA may grant an adjustment to a new hire who has successfully completed the position hiring process and been selected for an educator position.

(3) Once an educator qualifies for an adjustment in a designated school year, the adjustment becomes an ongoing part of the educator's salary.

(4)(a) Beginning July 1, 2023, an educator shall receive at least the amount described in Subsection 53F-2-405(4)(a) for the educator salary adjustment.

(b) Beginning July 1, 2024, an educator shall receive an annual adjustment of an amount equal to the amount described in Subsection 53F-2-405(4)(d) based upon legislative funding allocations.

(c) The Superintendent shall distribute funds to LEAs for the educator salary adjustment based on LEA educator data submitted by ~~November~~ October 15.

(d) An LEA may be required to provide funding to meet benefit costs for educators under this program.

(5) A school building level administrator shall receive an annual adjustment of \$2,500 and benefits as provided in Subsection 53F-2-405(7).

(6) Each LEA shall annually note on the appropriate salary schedule:

- (a) the amount of the educator salary adjustment;
- (b) the positions qualifying for the adjustment; and
- (c) performance rating requirements in accordance with Subsection 53F-2-405(4)(c).

(7) Each LEA shall annually maintain record of performance ratings for an educator receiving an adjustment in accordance with this rule.

(8)(a) The Superintendent shall remit to LEAs an estimated educator salary adjustment allotment through monthly bank transfers and allotment memos beginning in July of each year.

(b) The Superintendent shall adjust the allotment amount in November of each year to match the number of qualified educators in CACTUS or USIMS.

(9) An adjustment to CACTUS or USIMS made after ~~November 15~~ October 13 may not count toward an LEA's amount for educator salary adjustments until the following year.

(10) An LEA may not include educator salary adjustments when calculating the weighted average compensation adjustment for non-administrative licensed staff.

(11) For purposes of ensuring that an LEA may not reduce or artificially limit an educator's salary to convert the salary supplement in this section into a windfall to the LEA as required in Section 53F-2-405 an LEA shall:

(a) increase the total wage compensation of each educator, including salary and stipends, by at least \$4,200, from the educator's compensation in fiscal year 2022-23; and

(b) appropriately code educator salary and payroll provided through the educator salary adjustment to the educator salary adjustment program code in accordance with Rule R277-113 and the LEA's program accounting policy.

**KEY: educators, salary adjustments**

**Date of Last Change: 2024~~August 8, 2023~~**

**Notice of Continuation: April 15, 2022**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-2-405(5)**

#### NOTICE OF SUBSTANTIVE CHANGE

**TYPE OF FILING:** Repeal

**Rule or Section Number:**

**R277-124**

**Filing ID: 56716**

#### Agency Information

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

#### General Information

<b>2. Rule or section catchline:</b>
R277-124. Teacher Bonuses for Extra Assignments
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being repealed because there is no ongoing funding.

**4. Summary of the new rule or change:**  
 This rule is no longer necessary because it was enacted to support the distribution of one-time funding appropriated during the 2022 General Session and all the funds appropriated have now been distributed.  
 Therefore, the rule may now be repealed in its entirety.

**Fiscal Information**

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

**A) State budget:**

This repeal is not expected to have fiscal impact on state government revenues or expenditures. There is no remaining funding associated with this program that occurred in 2022 and no impact to the Utah State Board of Education (USBE) or Local Education Agencies (LEAs) associated with repealing the rule.

**B) Local governments:**

This repeal is not expected to have fiscal impact on local governments' revenues or expenditures. There is no remaining funding associated with this program that occurred in 2022 and no impact to USBE or LEAs associated with repealing the rule.

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

This repeal is not expected to have fiscal impact on small businesses' revenues or expenditures. This only affects USBE and LEAs.

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

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

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

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

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

There are no compliance costs for affected persons. There is no remaining funding associated with this program that occurred in 2022 and no impact to USBE or LEAs associated with repealing the 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.)**

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>



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

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

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this 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:**

Article X, Section 3	Subsection 53E-3-401(4)	Section 53F-2-524
----------------------	-------------------------	-------------------

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	10/01/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	10/08/2024
---	------------

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	08/15/2024
---	--	--------------	------------

**R277. Education, Administration.**

~~**R277-124. Teacher Bonuses for Extra Assignments.**~~

~~**R277-124.1. Authority and Purpose.**~~

- ~~(1) This rule is authorized by:~~
- ~~(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;~~
  - ~~(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and~~
  - ~~(c) Subsection 53F-2-524, which requires the Board to make rules to establish the grant program to compensate teachers who accepted an additional work assignment to substitute for another teacher between December 2021, and May 2022.~~
- ~~(2) The purpose of this rule is to establish the grant program described in Section 53F-2-524 to provide funding to LEAs to compensate teachers who accepted an additional work assignment to substitute for another teacher between December 2021, and May 2022, including:~~
- ~~(a) eligibility criteria for a teacher to qualify for a grant;~~
  - ~~(b) an application process; and~~
  - ~~(c) a distribution formula.~~

~~**R277-124.2. Definitions:**~~

- ~~(1) "Eligible LEA" means:~~
- ~~(a) an LEA that elects to participate in the grant program by applying to the Superintendent as described in Section R277-124-3; and~~
  - ~~(b) includes the Utah Schools for the Deaf and the Blind.~~
- ~~(2) "Program" means the teacher bonuses for extra assignments grant program created in Section 53F-2-524 and further described in this Rule R277-124.~~
- ~~(3) "Teacher" means the same as the term educator is defined in 53F-2-405.~~

**R277-124-3. Procedures.**

- ~~(1) An LEA may provide a teacher a bonus of up to \$100 per additional work assignment if the teacher accepted an additional work assignment to substitute for another teacher between December 1, 2021 and May 31, 2022.~~
- ~~(2) By May 1, 2022, the Superintendent shall provide the following to LEAs:~~
  - ~~(a) an estimate of the amount of grant funds available to the LEA; and~~
  - ~~(b) an application for the LEA to indicate:~~
    - ~~(i) whether the LEA will participate in the grant program;~~
    - ~~(ii) the amount of the LEA's available allocation described in Subsection (2)(a) that the LEA would like to receive; and~~
    - ~~(iii) whether the LEA would accept additional funds if there are remaining LEAs not electing to receive funding under this program.~~
- ~~(3)(a) By June 30, 2022 and in accordance with the distribution formula described in Subsection (3)(b), the Superintendent shall distribute funds to eligible LEAs to provide grants to teachers as described in this Section.~~
- ~~(b) The Superintendent shall use full time equivalent counts with a max of 1.0 for qualifying teachers for FY22 to determine the percentage of the allocation initially available to each LEA.~~
- ~~(c) If additional funds are available due to LEA election not to participate in the program, the Superintendent shall distribute remaining funds evenly among eligible LEAs that indicate willingness to accept funds as described in Subsection (2)(b)(iii).~~
- ~~(4) An eligible LEA may use the eligible LEA's existing policy on compensation for extra assignments to determine how the eligible LEA will distribute grants to teachers.~~
- ~~(5) An eligible LEA receiving funds that does not fully expend the eligible LEA's program funds shall return excess program funds to the Superintendent by September 1, 2022.~~

~~KEY: educator, teacher, bonus~~

~~Date of Last Change: June 7, 2022~~

~~Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-2-524]~~

NOTICE OF SUBSTANTIVE CHANGE		
<b>TYPE OF FILING:</b> Amendment		
<b>Rule or Section Number:</b>	<b>R277-304</b>	<b>Filing ID: 56717</b>

**Agency Information**

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

**General Information**

<b>2. Rule or section catchline:</b>
R277-304. Teacher Preparation Programs
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being amended to make updates to one incorporated document and to add a new incorporated document.
<b>4. Summary of the new rule or change:</b>
The amendments to the rule add an oversight category, update definitions, and make amendments to one incorporated document and add a new incorporated document.

he amendments to the existing "General Teacher Preparation Competencies" document specifically make updates involving technical changes related to teacher preparation. Next, a new incorporated document, "Standards for Special Education Educator Preparation Programs", is being added.

### Fiscal Information

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

##### A) State budget:

This rule change is not expected to have fiscal impact on state government revenues or expenditures. The oversight framework categorization is part of the Utah State Board of Education's (USBE) effort through Rule R277-111 to categorize each rule into an oversight framework category, or to delineate for stakeholders what type of monitoring or oversight is required by USBE resulting from the rule.

This categorization does not add any requirements or resources in and of itself. The updates to educator preparation competencies and the incorporated document, and the requirement to provide USBE with evidence that a teacher preparation program complies with requirements do not add specific or measurable costs for USBE or any other state entity.

##### B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. The oversight framework categorization is part of the Utah State Board of Education's (USBE) effort through Rule R277-111 to categorize each rule into an oversight framework category, or to delineate for stakeholders what type of monitoring or oversight is required by USBE resulting from the rule.

This categorization does not add any requirements or resources in and of itself. The updates to educator preparation competencies and the incorporated document, and the requirement to provide USBE with evidence that a teacher preparation program complies with requirements do not add specific or measurable costs for Local Education Agencies (LEAs).

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

This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. This only affects USBE and LEAs.

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

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

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

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

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

There are no compliance costs for affected persons. There are no measurable compliance costs for USBE or LEAs to update the reference to educator competencies and provide evidence a preparation program can prepare educators prior to approval by USBE.

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

Regulatory Impact Table			
Fiscal Cost	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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this regulatory impact analysis.			

**Citation Information**

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

**Incorporations by Reference Information**

<b>7. Incorporations by Reference:</b>	
<b>A) This rule adds or updates the following title of materials incorporated by references:</b>	
<b>Official Title of Materials Incorporated (from title page)</b>	General Teacher Preparation Competencies
<b>Publisher</b>	Utah State Board of Education
<b>Issue Date</b>	June 2024
<b>B) This rule adds or updates the following title of materials incorporated by references:</b>	
<b>Official Title of Materials Incorporated (from title page)</b>	Standards for Special Education Educator Preparation Program
<b>Publisher</b>	Utah State Board of Education
<b>Issue Date</b>	August 2024

**Public Notice Information**

<b>8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)</b>	
<b>A) Comments will be accepted until:</b>	10/01/2024
<b>9. This rule change MAY become effective on:</b>	10/08/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

### Agency Authorization Information

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	08/15/2024
---	--	--------------	------------

#### R277. Education, Administration.

#### R277-304. Teacher Preparation Programs.

#### R277-304-1. Authority, ~~and~~ Purpose, and Oversight Category.

- (1) This rule is authorized by:
  - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
  - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
  - (c) Subsection 53E-6-201(3)(a), which directs the Board to make rules to establish the criteria for obtaining an educator license.
- (2)(a) The purpose of this rule is to specify the standards which the Board expects of a teacher preparation institution before program approval in specified areas.
  - (b) The standards in this rule apply to the specific educational area and grade level for which the preparation program is designed.
- (3) This Rule R277-304 is categorized as Category 4 as described in Rule R277-111.

#### R277-304-2. Definitions.

- (1)(a) "Career and technical education" or "CTE" means organized educational programs or competencies which directly or indirectly prepare students for employment, or for additional preparation leading to employment, in occupations where entry requirements do not generally require a baccalaureate or advanced degree.
  - (b) CTE programs provide all students a continuous education system, driven by a student's college and career readiness plan, through competency-based instruction, culminating in essential life skills, certified occupational skills, and meaningful employment.
- (2) "Clinical experience" means a structured opportunity in which a program candidate is mentored by a licensed educator and evaluated by a teacher leader, school administrator, or university preparation program faculty member, in order to develop and demonstrate competency in the skills and knowledge necessary to be an effective teacher, in a physical classroom, which may include experiences in a virtual classroom.
- (3) "Competency" means evidence through demonstration in a higher education or prek-12 classroom setting of successful application of knowledge and skills.
  - ~~(4)(a) "Council for Exceptional Children" or "CEC" means an international professional organization dedicated to improving the educational success of both individuals with disabilities and individuals with gifts and talents.~~
  - ~~(b) CEC advocates for appropriate governmental policies, sets professional standards, provides professional development, advocates for individuals with exceptionalities, and helps professionals obtain conditions and resources necessary for effective professional practice.~~
  - ~~(5)(4) "Essential Elements" means the alternate academic achievement standards for students with significant cognitive disabilities, established by the Board in the Special Education Rules Manual, dated October 2016, incorporated by reference in Section R277-750-2.~~
  - ~~(6)(5) "Diverse student populations" means unique student groups as identified by:~~
    - ~~(a) gender;~~
    - ~~(b) race;~~
    - ~~(c) ethnicity;~~
    - ~~(d) disability;~~
    - ~~(e) sexual orientation;~~
    - ~~(f)(b) academic learning needs; or~~
    - ~~(g)(c) linguistic needs.~~
  - ~~(7)(6)(a) "Multi-tiered system of supports" or "MTSS" means a framework for integrating assessment and intervention to maximize student achievement, reduce behavior problems, and increase long-term success.~~
    - (b) The combination of systematic implementation of increasingly intensive intervention, sometime referred to as tiers, and carefully monitoring students' progress, distinguishes MTSS from typical prevention measures.
    - (c) Emphasis, in MTSS, is placed on ensuring interventions are implemented effectively.
  - ~~(8)(7) "Personalize" means to engage all students with high expectations for their learning goals and to empower each learner to take ownership of their individual strengths, needs, and interests, while tailoring flexible supports to maximize student growth and competence.~~
  - ~~(9)(8) "Utah Core Standards" means the core standards established by the Board in Rule R277-700 for grades K-12 and the Utah Early Childhood Core Standards, February 2013 edition.~~

#### R277-304-3. Incorporation by Reference of Educator Preparation Program Competencies.

- (1) This rule incorporates by reference:
  - (a) the General Teacher Preparation Competencies dated ~~January~~ June 2024;
  - (b) the Educator Preparation Program Competencies for Elementary Literacy dated May 2022; ~~and~~
  - (c) the Elementary Content Competencies dated January 2024; ~~and~~
  - (d) the Standards for Special Education Educator Preparation Program Approval dated August 2024.
- (2) A copy of these documents is located at:
  - (a) <https://schools.utah.gov/administrativerules/documentsincorporated>; and
  - (b) the offices of the Utah State Board of Education.

**R277-304-4. General Teacher Preparation.**

Before approval by the Board, a teacher preparation program shall provide evidence that the program:

- (1) prepares candidates to meet the Utah Effective Teaching Standards in Rule R277-330;
- (2) prepares candidates to teach:
  - (a) the Utah Core Standards; and
  - (b) the Essential Elements, as appropriate to a candidate's prospective area of licensure as established by the Board;
- (3) includes school-based clinical experiences for a candidate to observe, practice skills, and reflect on teaching that:
  - (a) are significant in number, depth, breadth, and duration;
  - (b) are progressively more complex; and
  - (c) include working with all types of students;
- (4) for candidates who enroll in a preparation program before September 1, 2025, requires competency in:
  - (a) content and content specific pedagogy appropriate for the area of licensure;
  - (b) knowledge of the Educator Standards contained in Rule R277-217;
  - (c) designing, administering, and reviewing formative and summative assessments in a meaningful and ethical manner;
  - (d) improving student outcomes by:
    - (i) using student assessment data, both formative and summative;
    - (ii) analyzing instructional practices; and
    - (iii) making necessary adjustments to personalize learning;
  - (e) using strategies to promote active student engagement;
  - (f) systematically designing instruction toward a specific learning goal by:
    - (i) providing tier one and tier two instruction and intervention on the Utah core standards including the use of competency-based

learning;

- (ii) using a variety of evidence-based instructional strategies, including explicit instruction and scaffolded supports;
- (iii) integrating technology to support and meaningfully supplement the learning of students;
- (iv) designing developmentally appropriate and authentic learning experiences;
- (v) developing higher order thinking and metacognitive skills; and
- (vi) integrating cross-disciplinary skills, such as literacy and numeracy, into instruction;
- (g) providing positive and constructive feedback to guide students' learning and behavior;
- (h) establishing a consistent, organized, and respectful learning environment, including:
  - (i) positive behavior interventions and supports within a multi-tiered system of support;
  - (ii) classroom procedures and routines;
  - (iii) trauma-informed practices; and
  - (iv) restorative practices;
- (i) knowledge and skills to assist in the identification of and instruction for students with disabilities in the general classroom,

including:

- (i) knowledge of the IDEA and Section 504 of the Rehabilitation Act;
- (ii) knowledge of the role of non-special-education teachers in the education of students with disabilities;
- (iii) knowledge and skills in implementing least restrictive behavior interventions;
- (iv) skills in implementing and assessing the results of interventions; and
- (v) skills in the implementation of an educational program with accommodations, modifications, services, and supports established by an IEP or a 504 plan for students with disabilities in the general education classroom;
- (j) knowledge and skills designed to meet the needs of diverse student populations in the general education classroom, including:
  - (i) allowing students alternative ways to demonstrate learning that are sensitive to student diversity;
  - (ii) creating an environment that is sensitive to multiple experiences and diversity;
  - (iii) designing, adapting, and delivering instruction to address each student's diverse learning strengths and needs; and
  - (iv) incorporating language development into planning, instruction, and intervention for students learning English, using their first language as an asset while supporting development of English proficiency; and

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

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

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

- (a) implementing the planning and design, delivery, facilitation, assessment, evaluation, and reflection of a unit of instruction;
- (b) revising instructional plans for future implementation or reteaching concepts as appropriate;
- (c) implementing the accommodations, modifications, services, and supports as outlined in a student's IEP or 504 plan;
- (d) evaluating student artifacts and assessments;
- (e) establishing and maintaining classroom procedures and routines that include positive behavior interventions and supports;
- (f) establishing and maintaining a positive learning climate;
- (g) reflecting on the teaching process and justifying instructional decisions;
- (h) participating in at least one IEP meeting or parental consultation regarding a student that the program candidate has instructed;

and

- (i) consulting and collaborating with qualified personnel, such as a school counselor or school social worker, regarding the emotional well-being of students;
- (7) include consideration of a candidate's dispositions and suitability for teaching; and
- (8) include plans for candidate remediation and exit counseling, if appropriate.

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

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

- (a) the areas outlined in Section R277-304-3;
- (b) early childhood development and learning;
- (c) for candidates who enroll in a preparation program before September 1, 2025, the appropriate content knowledge needed to teach:
  - (i) the science of literacy instruction including:
    - (A) phonemic awareness;
    - (B) phonics;
    - (C) fluency;
    - (D) vocabulary;
    - (E) comprehension; and
  - (ii) the Educator Preparation Program Competencies for Elementary Literacy;
  - (iii) the science of mathematics instruction, including:
    - (A) quantitative reasoning;
    - (B) problem solving;
    - (C) representation;
    - (D) numeracy; and
    - (E) a balance of procedural and conceptual understanding;
  - (iv) physical and life science;
  - (v) health and physical education;
  - (vi) social studies; and
  - (vii) fine arts; or

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

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

- (a) all requirements outlined in Subsections R277-304-4(4) through (7);
- (b) demonstrating content-specific pedagogy in each of the areas outlined in Subsection R277-304-5(1);
- (c) diagnosing students struggling with reading and planning and implementing remediation for those students; and
- (d) diagnosing students struggling with mathematics and planning and implementing remediation for those students.

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

- (a) An early childhood education program shall focus primarily on early childhood development and learning in kindergarten through grade 3.
- (b) An elementary program shall include both early childhood development and learning and elementary content and pedagogy in kindergarten through grade 6.

**R277-304-6. Secondary Preparation Programs.**

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

- (a) all content competencies established by the Superintendent for a professional educator license in at least one endorsement;
- (b) all areas outlined in Subsections R277-304-~~3~~4(4) through (7);
- (c) including literacy and quantitative learning objectives in content-specific classes in alignment with the Utah Core Standards;

and

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

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

- (a) all requirements outlined in Subsections R277-304-~~3~~4(4) through (7); and
- (b) ensuring student safety and learning in educational labs or shops and extra-curricular settings.

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

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

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

## NOTICES OF PROPOSED RULES

(b) ~~[aligned with the 2012 Council for Exceptional Children Initial Preparation Standards as informed by the Council for Exceptional Children Specialty Sets for Initial Preparation Programs]~~ it requires competency in Board approved special education teacher preparation competencies in one or more of the following special education areas:

- (i) Mild/Moderate Disabilities;
- (ii) Severe Disabilities;
- (iii) Deaf and Hard of Hearing;
- (iv) Blind and Visually Impaired;
- (v) Deafblind; or
- (vi) Preschool Special Education (Birth-Age 5);
- (c) the program requires the passage of a special education content knowledge assessment approved by the Superintendent;
- (d) the program requires the passage of a Braille assessment approved by the Superintendent for a program in the Blind and Visually Impaired area;
- (e) the program requires competency in:
  - (i) all areas detailed in Subsections R277-304-4(4) through (7);
  - (ii) legal and ethical issues surrounding special education, including:
    - (A) the IDEA;
    - (B) the Special Education Rules Manual incorporated by reference in Section R277-750-2; and
    - (C) all other applicable statutes and Board rules;
  - (iii) working with other school personnel to implement and evaluate academic, behavioral, and developmental supports and interventions for students with disabilities within a multi-tiered system of supports as appropriate for the area of licensure;
  - (iv) training in and supervising the services and supports provided to students with disabilities by general education teachers, related service providers, and paraprofessionals; and
  - (v) providing specially designed instruction, including content-specific pedagogy, as per IEPs, to students with disabilities, including:
    - (A) the Utah Core Standards; and
    - (B) the Essential Elements as appropriate to a candidate's prospective area of licensure as established by the Board;
    - (C) skills in assessing and addressing the educational, developmental, and functional needs and progress of students with disabilities;
    - (D) skills in implementing and assessing the results of research and evidence-based interventions for students with disabilities; and
    - (E) skills in implementing an educational program with accommodations, modifications, services, and supports established by an IEP for students with disabilities.

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

- (a) all requirements outlined in Subsections R277-304-~~3~~4(4) through (7);
- (b) creating learning goals and objectives for a student with disabilities that are specific, measurable, time-bound, and aligned to identified student needs and the Utah Core Standards;
- (c) designing or adapting learning environments for diverse student populations that encourage active participation in individual and group activities;
- (d) monitoring school compliance with ~~[the provisions of]~~ multiple student's IEP and Section 504 plans;
- (e) conducting a student IEP meeting under the supervision of a licensed special education teacher;
- (f) using knowledge of measurement principles and practices to interpret assessment information in making instructional, eligibility, program, and placement decisions for students with disabilities, including those from culturally or linguistically diverse backgrounds;
- (g) communicating with parents of students with disabilities to ensure they are informed regarding the progress of their student and their right to due process; and
- (h) if the program is designed to prepare an individual for a special education license area, developing and implementing a secondary transition plan as it related to post-secondary education and training, competitive employment, and independent living.

### **R277-304-8. Deaf Education Preparation Programs.**

- (1) Before approval by the Board, a deaf education preparation program shall:
  - (a) be operated by or partnered with a Utah institution of higher education or the Utah State Board of Education;
  - (b) be aligned with the National Association of State Directors of Special Education, Inc., Optimizing Outcomes for Students who are Deaf or Hard of Hearing, Educational Service Guidelines, Third Edition;
  - (c) be focused on one or more of the following areas:
    - (i) teaching students who are deaf or hard of hearing from birth to age five using both listening and spoken language strategies and American Sign Language;
    - (ii) teaching students who are deaf or hard of hearing with listening and spoken language strategies; or
    - (iii) teaching students who are deaf or hard of hearing with strategies that promote the development of American Sign Language and English literacy across the curriculum;
  - (d) require the passage of a deaf education content knowledge assessment approved by the Superintendent;
  - (e) require competency in:
    - (i) the areas detailed in Subsections R277-304-~~3~~4(4) through (7).
    - (ii) legal and ethical issues surrounding special education, including:



- (A) the IDEA;
- (B) the Special Education Rules Manual incorporated by reference in Section R277-750-2; and
- (C) all other applicable statutes and Board rules;
- (iii) addressing specific linguistic and cultural needs of deaf and hard of hearing students throughout the curriculum;
- (iv) skills for incorporating language into all aspects of the curriculum;
- (v) pedagogical skills unique to teaching reading, writing, mathematics, and other content areas to deaf and hard of hearing students;
- (vi) basic fluency in the use of American Sign Language;
- (vii) knowledge of the audiological and physiological components of audition;
- (viii) skills for teaching speech to deaf and hard of hearing students;
- (ix) the socio-cultural and psychological implications of hearing loss; and
- (x) assessing and addressing the educational needs and educational progress of deaf and hard of hearing students.

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

- (a) all requirements outlined in Subsections R277-304-~~3~~4(4) through (7);
- (b) for a program focused on Subsection R277-304-~~7~~8(1)(c)(i):

- (i) assessing early childhood language development and assessment in American Sign Language and spoken English;
- (ii) working with families with students who are deaf or hard of hearing while respecting a variety of communication modalities;
- (iii) integrating language, speech, and listening everyday activities;
- (iv) sharing knowledge with families with students who are deaf or hard of hearing about the complexities of deaf culture, including norms and behaviors of the deaf community;

- (v) developing auditory perception in children and educating parents about developmental milestones for listening skills; and
- (vi) proficiency in American Sign Language as demonstrate by passing an assessment approved by the Superintendent;

- (c) for a program focused on Subsection R277-304-~~7~~8(1)(c)(ii):

(i) developing auditory perception in children and strategies for developing listening and spoken language in deaf and hard of hearing students;

- (ii) demonstrating understanding and expertise regarding early childhood spoken language development;
- (iii) involving family members with students who are deaf or hard of hearing in learning and therapeutic activities;
- (iv) integrating speech, listening, and spoken language in preschool and early elementary content areas; and
- (v) integrating current listening technology, including troubleshooting such technology; and

- (d) for a program focused on Subsection R277-304-~~7~~8(1)(c)(iii):

- (i) integrating American Sign Language into instruction of core academic content for all school-age students;
- (ii) enhancing bilingual literacy of students who are deaf or hard of hearing in both American Sign Language and English;
- (iii) integrating respect and understanding of deaf culture into instruction;
- (iv) demonstrating understanding and expertise regarding American Sign Language, language development; and
- (v) proficiency in American Sign Language as demonstrated by passing an assessment approved by the Superintendent.

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

(1) Before approval by the Board, a CTE teacher preparation program designed for individuals that do not hold a bachelor's degree or higher shall:

- (a) focus on one or more of the following areas:

- (i) family and consumer sciences;
- (ii) health sciences;
- (iii) information technology;
- (iv) skilled and technical sciences; or
- (v) work-based learning;

(b) require that candidates have six years of documented, related occupational experiences within the 10 years before the program application in an approved CTE license area;

- (c) require competency in all areas detailed in Section R277-304-~~5~~4;

(d) for a program candidate accepted after January 1, 2020, a CTE preparation program shall require multiple opportunities for a program candidate to successfully demonstrate application of knowledge and skills gained through the program in a school-based setting in all requirements outlined in Section R277-304-~~5~~4; and

(e) require candidates to hold the applicable license or certificate issued by the Utah State Department of Commerce, Division of Professional Licensing in any area where such licensure or certification exists.

(2) A program may count an associate's degree in a related area for up to two years of occupational experience to satisfy the requirement in Subsection R277-304-~~8~~9(1)(b).

(3)(a) An approved program may request a waiver from the Superintendent of the occupational experience required for a candidate if the candidate has passed an approved competency examination in the respective field at or above the passing score established by the Superintendent.

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

**KEY:** teacher preparation, programs, educators

**Date of Last Change:** 2024|~~March 20, 2024~~

**Notice of Continuation:** March 15, 2024

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

NOTICE OF SUBSTANTIVE CHANGE		
<b>TYPE OF FILING:</b> Repeal		
<b>Rule or Section Number:</b>	R277-321	<b>Filing ID:</b> 56718

**Agency Information**

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

**General Information**

<b>2. Rule or section catchline:</b>	R277-321. Paraeducator to Teacher Scholarship Program
<b>3. Purpose of the new rule or reason for the change:</b>	This rule is being repealed as a result of the passage of S.B. 2 in the 2024 General Session.
<b>4. Summary of the new rule or change:</b>	This rule is no longer necessary because state funding for Paraeducator to Teacher scholarship program and the related code was repealed. As a result, Rule R277-321 is being repealed in its entirety.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This repeal is not expected to have fiscal impact on state government revenues or expenditures. S.B. 2 (2024) repealed this program and therefore, the rule is no longer needed.
The Utah State Board of Education (USBE) believes that the fiscal note to S.B. 2 (2024) capture any fiscal impacts.
<b>B) Local governments:</b>
This repeal is not expected to have fiscal impact on local governments' revenues or expenditures. S.B. 2 (2024).repealed this program and therefore, the rule is no longer needed.
USBE believes that the fiscal note to S.B. 2 (2024) capture any fiscal impacts.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
This repeal is not expected to have fiscal impact on small businesses' revenues or expenditures. S.B. 2 (2024) repealed this program and therefore the rule is no longer needed.

USBE believes that the fiscal note to S.B. 2 (2024) capture any fiscal impacts.

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

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

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

This repeal is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. S.B. 2 (2024) repealed this program and therefore the rule is no longer needed. USBE believes that the fiscal note to S.B. 2 (2024) capture any fiscal impacts.

**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. S.B. 2 (2024) repealed this program and therefore the rule is no longer needed. USBE believes that the fiscal note to S.B. 2 (2024). capture any fiscal impacts.

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

**Regulatory Impact Table**

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

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

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this 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:**

Article X, Section 3	Subsection 53E-3-401(4)	Section 53F-5-205
----------------------	-------------------------	-------------------

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	10/01/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	10/08/2024
---	------------

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	08/15/2024
---	--	--------------	------------

**R277. Education, Administration.**

~~**R277-321. Paraeducator to Teacher Scholarship Program.**~~

~~**R277-321-1. Authority and Purpose.**~~

- ~~(1) This rule is authorized by:~~
  - ~~(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;~~
  - ~~(b) Subsection 53E-3-401(4), which permits the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and~~
  - ~~(c) Subsection 53F-5-205(9), which requires the Board to make rules to administer the Paraeducator to Teacher Scholarship Program.~~
- ~~(2) The purpose of this rule is to:~~
  - ~~(a) distribute funds to paraeducators seeking to become licensed educators; and~~
  - ~~(b) establish application and accountability procedures to provide funding to prospective educators directly and fairly.~~

~~**R277-321-2. Definitions.**~~

- ~~(1) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.~~
- ~~(2) "Paraeducator" means the same as that term is defined in Subsection 53F-5-205(1)(b).~~
- ~~(3) "Paraeducator Scholarship Selection Committee" or "committee" means the committee established by the Board to select scholarship recipients as required by Subsection 53F-5-205(5).~~
- ~~(4) "Scholarship" means funds paid directly to a Utah institution of higher education on behalf of a paraeducator in accordance with Subsection 53F-5-205(7).~~

~~**R277-321-3. Scholarship Amounts and Requirements.**~~

- ~~(1) A paraeducator shall use a stipend awarded under this rule solely for expenses allowed by Section 53F-5-205 and this rule annually between July 1 and the following June 30.~~
- ~~(2) A scholarship recipient shall remain continuously employed by an LEA in accordance with Subsection 53F-5-205(8).~~
- ~~(3) A scholarship recipient shall provide documentation of progress toward graduation, upon request by the scholarship recipient's employer or the Board.~~
- ~~(4) A scholarship recipient who does not remain employed for the duration of the scholarship period or who does not satisfactorily complete funded courses shall be responsible to reimburse the Board for the amount of scholarship funding.~~

~~**R277-321-4. Applicant Scholarships Recipient and LEA Responsibilities.**~~

- ~~(1) An LEA shall employ a scholarship recipient for a minimum of 10 hours per week at the time of application for the scholarship and during any year in which the paraeducator receives the scholarship.~~
- ~~(2) A scholarship applicant shall submit a completed application found on the Board website to the applicant's LEA.~~
- ~~(3) An applicant shall provide university transcripts and information about tuition expenses on the application based on the most recent information available from the Utah institution of higher education to which the applicant has either been admitted or made application.~~
- ~~(4) An LEA shall submit each application to the Superintendent on or before May 15 annually.~~
- ~~(5) A scholarship recipient and the LEA whose employee receives funding under this program shall cooperate with any monitoring conducted by the Superintendent.~~

~~**R277-321-5. Paraeducator Scholarship Selection Committee.**~~

- ~~(1) The committee shall consist of:~~
  - ~~(a) the Superintendent;~~
  - ~~(b) one representative of the Board of Regents designated by the Board of Regents;~~
  - ~~(c) one representative of the largest parent teacher association in the state;~~
  - ~~(d) no more than two additional representatives of the general public designated by the Board.~~
- ~~(2) The committee shall receive completed applications from LEAs consistent with R277-526-4.~~
- ~~(3) The committee shall determine funding for applicants from applications received from LEAs after considering the number of applications received and the amount of funding available.~~

- ~~(4) The committee may develop and consider additional selection criteria including:~~
  - ~~(a) support from the recommending LEA; and~~
  - ~~(b) geographical distribution of recipients.~~
- ~~(5) The committee shall provide names of scholarship recipients to the Board for review and comment by August 1, annually.~~
- ~~(6) The committee or the Board may require a summary assessment of the increased number of paraeducators who become educators and other program results from participating scholarship recipients and LEAs.~~

~~KEY: paraeducator, scholarship~~

~~Date of Last Change: November 8, 2021~~

~~Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-5-205]~~

**NOTICE OF SUBSTANTIVE CHANGE**

**TYPE OF FILING:** Amendment

**Rule or Section Number:**

**R277-324**

**Filing ID: 56719**

**Agency Information**

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

**General Information**

<b>2. Rule or section catchline:</b>
R277-324. Paraprofessional/Paraeducator Programs, Assignments, and Qualifications
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being amended due to the passage of S.B. 2 during the 2024 General Session.
<b>4. Summary of the new rule or change:</b>
The amendments specifically repeal several subsections in Rule R277-324. This is a result of state funding for Paraeducator to Teacher scholarship program and the related code having been repealed with the passage of S.B. 2 (2024).

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This rule change is not expected to have fiscal impact on state government revenues or expenditures. S.B. 2 (2024) repealed this program and therefore, this rule is no longer needed. The Utah State Board of Education (USBE) believes that the fiscal note to S.B. 2 (2024) capture any fiscal impacts.
<b>B) Local governments:</b>
This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. S.B. 2 (2024) repealed this program and therefore, this rule is no longer needed. USBE believes that the fiscal note to S.B. 2 (2024) capture any fiscal impacts.

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

This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. S.B. 2 (2024) repealed this program and therefore, this rule is no longer needed. USBE believes that the fiscal note to S.B. 2 (2024) capture any fiscal impacts.

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

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

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

This rule change is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. S.B. 2 (2024) repealed this program and therefore, this rule is no longer needed. USBE believes that the fiscal note to S.B. 2 (2024) capture any fiscal impacts.

**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. S.B. 2 (2024) repealed this program and therefore, this rule is no longer needed. USBE believes that the fiscal note to S.B. 2 (2024) capture any fiscal impacts.

**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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this 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:**

Article X, Section 3	Subsection 53E-3-401(4)	Subsection 53E-3-501(1)(a)(i)
Subsection 53F-2-411(4)		

**Public Notice Information**

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

**A) Comments will be accepted until:** 10/01/2024

**9. This rule change MAY become effective on:** 10/08/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	08/15/2024
---	--	--------------	------------

**R277. Education, Administration.**

**R277-324. Paraprofessional/Paraeducator Programs, Assignments, and Qualifications.**

**R277-324-1. Authority, ~~and~~ Purpose, and Oversight Category.**

- (1) This rule is authorized by:
  - (a) Utah Constitution, Article X, Section 3 which vests general control and supervision of public education in the Board;
  - (b) Subsection 53E-3-401(4), which gives the Board authority to adopt rules in accordance with its responsibilities; and
  - (c) Subsection 53E-3-501(1)(a)(i), which requires the Board to establish rules and minimum standards for the public schools regarding the qualification and certification of educators and ancillary personnel who provide direct student services; ~~and~~
  - ~~(d) Subsection 53F-2-411(4), which requires the Board to establish a rule that creates the funding distribution for money appropriated to paraeducator programs.]~~
- (2) The purpose of this rule is to~~[-~~:
  - ~~(a)]~~ designate appropriate assignments of paraprofessionals and qualifications for paraprofessionals;
  - ~~(b)]~~ establish the formula for distribution of Paraeducator funding under Section 53F-2-411 to eligible schools; and
  - ~~(c)]~~ provide minimum standards for use of funds and reporting requirements;]
- (3) This Rule R277-324 is categorized as Category 2 as described in Rule R277-111.

**R277-324-2. Definitions.**

- ~~(1) "Eligible school," means the same as the term is defined in Subsection 53F-2-411(1)(a).~~
- ~~(2) "Paraeducator funding" means supplemental state funding provided under Section 53F-2-411 to Title I schools identified as in need of improvement under the Elementary and Secondary Education Act (ESEA), Title IX, Part A, 20 U.S.C. 7801 to hire additional paraeducators to assist students in achieving academic success.]~~
- ~~(3)](1)(a) "Paraprofessional" or "paraeducator" means [the same as the term is defined in Subsection 53F-2-411(1)(b);] an individual who performs a non-instructional or instructional supporting role in various educational settings and may provide support in a non-instructional role, such as providing parental or guardian involvement activities or by providing support in a specific setting.~~
- ~~(b) A "paraprofessional" or "paraeducator" provides instructional support under the direct supervision of a licensed educator or other licensed or certified professional as described in Section 53F-2-411.~~
- ~~(4)](2) "Paraprofessional training" means professional development consistent with or using information provided in this rule and the Utah Standards for Instructional Paraeducators.~~

**R277-324-3. Incorporation by Reference of Utah Standards for Instructional Paraeducators.**

- (1) This rule incorporates by reference the Utah Standards for Instructional Paraeducators, dated December 4, 2018.
- (2) A copy of the Utah Standards for Instructional Paraeducators is available at:
  - (a) <https://schools.utah.gov/administrativerules/documentsincorporated>; and
  - (b) the offices of the Utah State Board of Education, 250 E. 500 So., Salt Lake City, Utah, 84111.

**R277-324-4. Appropriate Assignments or Duties for Paraprofessionals.**

- (1) A paraprofessional may:
  - (a) upon completion of explicit training from appropriately licensed teachers or related service providers, provide individual or small group instructional assistance or tutoring to students as designed by an appropriately licensed teacher or related service provider during times when students would not otherwise receive instruction from an appropriately licensed teacher or related service provider;
  - (b) assist with classroom organization and management, such as organizing instructional or other materials;
  - (c) provide assistance with supplementary aids and services, program modifications, and support, such as assistive technology devices and services;
  - (d) conduct parental involvement activities;

NOTICES OF PROPOSED RULES

- (e) provide support in library or media centers; or
  - (f) provide supervision for students in non-instructional settings.
- (2) A paraprofessional may not:
- (a) be responsible for selecting or administering formal diagnostic or psychological instruments or for interpreting the results of those instruments if the paraprofessional's training, licensure, or other forms of certification do not align with the administration and interpretation requirements stated in an instrument's technical manual;
  - (b) be responsible for selecting programming or prescribing educational activities or materials for the students without the supervision and guidance of an appropriately licensed teacher or related service provider;
  - (c) be solely responsible for designing lesson plans;
  - (d) be assigned to implement elements of an IEP for a student with disabilities without direct training, supervision, and involvement from an appropriately licensed teacher or related service provider;
  - (e) employed to fulfill the responsibilities that may only be provided by an appropriately licensed and otherwise qualified teacher or related service provider; or
  - (f) perform nursing procedures or administer medications without appropriate supervision and training from an appropriately licensed health care professional.
- (3) A licensed teacher shall:
- (a) prepare a lesson and plan the instruction support activities to be carried out by a paraprofessional;
  - (b) evaluate the achievement of the students with whom a paraprofessional works; and
  - (c) provide the supervision and support to the paraprofessional that the teacher deems appropriate for the paraprofessional to work effectively in the paraprofessional's role and responsibilities.
- (4) If a paraeducator is working in a special education program, the LEA shall appropriately train the special education teacher to supervise and direct the work of the paraeducator in the paraeducator's assigned roles and responsibilities.
- (5) An LEA that employs a paraprofessional shall establish and maintain documentation of training provided by the LEA as required in:
- (a) Subsection (1)(a); and
  - (b) for a[n] paraprofessional who works with a student with a disability, Utah State Board of Education Special Education Rules Section IX.E, incorporated by reference into Rule R277-750.

**R277-324-5. Requirements for Paraprofessionals in Title I Schoolwide and Targeted Assistance Programs.**

- (1) A paraprofessional hired to work in Title I schoolwide or targeted assistance programs supported by Title I funds shall be a high school graduate or equivalent and shall meet at least one of the following requirements:
- (a) complete at least two years, or a minimum of 48 semester hours, at an accredited higher education institution;
  - (b) obtain an associate, or higher, degree from an accredited higher education institution; or
  - (c) satisfy a rigorous Board approved assessment that demonstrates:
    - (i) knowledge of, and the ability to assist in instructing, reading, writing, and mathematics; or
    - (ii) knowledge of, and the ability to assist in instructing, reading readiness, writing readiness, and mathematics readiness, as appropriate.
- (2) A paraprofessional shall satisfactorily complete a criminal background check consistent with Section 53G-11-402 and Rule R277-316.

**R277-324-6. Exceptions in Title I Schoolwide and Targeted Assistance Programs.**

The requirements in Section R277-324-4 do not apply to a paraprofessional with a high school diploma or equivalent solely providing:

- (1) support through translator services;
- (2) support as a parent engagement liaison; or
- (3) personal care for students with disabilities.

**R277-324-7. Use of Funds.**

An LEA may use Title I funds in addition to other funds available and identified by the LEA to support ongoing training and professional development for paraprofessionals.

[

~~**R277-324-8. Funding Distribution.**~~

~~(1) The Superintendent shall divide the funds provided under Section 53F-2-411 equally to schools identified as comprehensive support and improvement schools.~~

~~(2) A school may only use funds distributed in accordance with Subsection (1) to hire high quality paraeducators to assist with reading instruction.~~

~~**R277-324-9. Responsibilities of Eligible Schools Receiving Paraeducator Funding.**~~

- ~~(1) A paraeducator hired with paraeducator funding shall:~~
- ~~(a) meet the qualifications described in Section R277-324-5; and~~
  - ~~(b) provide additional aid in the classroom to assist students in achieving academic success.]~~



**KEY:** paraprofessional qualifications  
**Date of Last Change:** ~~March 15,~~ 2024  
**Notice of Continuation:** September 9, 2021  
**Authorizing, and Implemented or Interpreted Law:** Art X Sec 3; 53E-3-401(4); 53E-3-501(1)(a)(i); 53F-2-411(4)

<b>NOTICE OF SUBSTANTIVE CHANGE</b>		
<b>TYPE OF FILING:</b> Repeal		
<b>Rule or Section Number:</b>	<b>R277-327</b>	<b>Filing ID:</b> 56720

**Agency Information**

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

**General Information**

<b>2. Rule or section catchline:</b>
R277-327. School Leadership Development Grant
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being repealed because the Legislature has discontinued funding for the program.
<b>4. Summary of the new rule or change:</b>
This rule is no longer necessary because the program has been discontinued and will be repealed in its entirety.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This repeal is not expected to have fiscal impact on state government revenues or expenditures. The grant funding has been discontinued by the legislature and there is not impact to current Utah State Board of Education (USBE) or Local Education Agencies (LEA) budgets.
<b>B) Local governments:</b>
This repeal is not expected to have fiscal impact on local governments' revenues or expenditures. The grant funding has been discontinued by the legislature and there is no impact to USBE or LEAs.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
This repeal is not expected to have fiscal impact on small businesses' revenues or expenditures. This only affects USBE and LEAs.

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

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

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

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

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

There are no compliance costs for affected persons. The grant funding has been discontinued by the legislature and there is no impact to USBE or LEAs.

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

Regulatory Impact Table			
Fiscal Cost	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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this 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:**

Article X, Section 3	Subsection 53E-3-401(4)	Section 53F-5-214
----------------------	-------------------------	-------------------

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	10/01/2024
--	------------

**9. This rule change MAY become effective on:**

10/08/2024

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

**Agency Authorization Information**

**Agency head or designee and title:**

Angie Stallings, Deputy Superintendent of Policy

**Date:**

08/15/2024

**R277. Education, Administration.**

~~[R277-327. School Leadership Development Grant.~~

~~**R277-327-1. Authority and Purpose.**~~

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

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

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

~~(c) Section 53F-5-214, which directs the Board to make rules establishing the requirements and parameters for the school leadership grant.~~

~~(2) The purpose of this rule is to establish:~~

~~(a) mentoring program requirements for new principals;~~

~~(b) grant application and award procedures including a formula for determining an eligible applicant's grant award amount;~~

~~(c) performance measures and reporting requirements for a grant recipient;~~

~~(d) principal leadership standards and competencies;~~

~~(e) professional learning activities to improve principal leadership for which a grant recipient may use a grant award.~~

~~**R277-327-2. Definitions.**~~

~~(1) "Components of programming" means the same as the list of allowable uses described in Subsection 53F-5-214(3)(a) and:~~

~~(i) leader standards;~~

~~(ii) preservice preparation;~~

~~(iii) selective hiring and placement;~~

~~(iv) job-embedded evaluation and support; and~~

~~(v) systems and capacity for supporting the leadership pipeline.~~

~~(2) "Eligible applicant" means the same as the term is defined in Subsection 53F-5-214(1)(c).~~

~~(3) "Evidence-based" means a strategy that has demonstrated a statistically significant effect on improving outcomes.~~

~~(4) "Mentoring program" means a program designed by the eligible applicant that contains all required components specified by the Superintendent.~~

~~(5) "Needs assessment" means the relevant assessment chosen by the Superintendent.~~

~~(6) "Principal" means the same as the term is defined in Subsection 53F-5-214(1)(f).~~

~~(7) "Professional learning activities" means the same as the activities described in Subsection 53F-5-214(3).~~

~~(8) "Standards and competencies" means:~~

~~(a) the competencies described in Section R277-305-4;~~

~~(b) the Utah Educational Leadership Standards approved by the Board; and~~

~~(c) other knowledge, skills, and dispositions as determined by the eligible applicant.~~

~~**R277-327-3. School Leadership Development Planning Grant—Eligibility and Application.**~~

~~(1) An eligible applicant may apply for a planning grant in preparation for a full plan and receiving a School Leadership implementation grant as described in Section R277-327-4.~~

~~(2) A planning grant awarded under Subsection (1) shall be \$15,000 for an eligible applicant pursuant to the requirements described in Subsection (3), subject to legislative appropriations.~~

~~(3) In order to qualify for a planning grant, an eligible applicant shall submit to the Superintendent the following by July 1:~~

~~(a) evidence the eligible applicant has formed a school leadership development team;~~

~~(b) a completed planning grant application including:~~

~~(i) a school leadership development purpose statement;~~

~~(ii) a list of the eligible applicant's school leadership development team including membership and roles;~~

~~(iii) a timeline for actions to develop the full plan by December 1 of the year the grant is awarded including within the School Leadership Development Workshops; and~~

~~(iv) a budget table with justification for each budget item; and~~

~~(c) a commitment to attend and participate in the School Leadership Development planning grant workshops held by the Superintendent.~~

~~(4) If an eligible applicant receives a planning grant, the eligible applicant shall submit an application for a School Leadership Implementation Grant, as described in Section R277-327-4, by the deadline required by the Superintendent.~~

~~(a) An eligible applicant that fails to submit a School Leadership Development implementation grant as required in Subsection (4)(a) shall reimburse funds awarded under Subsection (2).~~

**R277-327 4. School Leadership Development Implementation Grant—Eligibility and Application:**

- (1) An eligible applicant may apply for an implementation grant of the eligible applicant's full plan.
- (2) An eligible applicant shall submit an application for an implementation grant by December 1 including:
  - (a) the requirements described in Subsection R277-327-3(a), (b)(i), (b)(ii), (b)(iv) and;
  - (b) a timeline of actions for a 5-year period including:
    - (i) a detailed timeline of each activity for year 1; and
    - (ii) a high-level timeline of activities for years 2-5;
  - (c) a commitment to attend and participate in the School Leadership Development workshops held by the Superintendent;
  - (d) specific plans for a mentoring program and professional learning activities;
  - (e) a baseline report of the data described in Subsection 53F-5-214(5)(b);
  - (f) a completed needs assessment; and
  - (g) an outline of the eligible applicant's evidence-based components of programing including the standards and competencies the eligible applicant will require.
- (3) The Superintendent shall score and rank each complete application based on the following criteria:
  - (a) the eligible applicant's ability to develop and sustain a continuous principal pipeline;
  - (b) the eligible applicant's demonstration of greatest ability for impact; and
  - (c) a demonstration that both (a) and (b) are based upon:
    - (i) number of aspiring, new, or experienced principals;
    - (ii) identification of the most impactful portions of an eligible applicant's principal pipeline;
    - (iii) demonstration that the eligible applicant's plan prioritizes the most impactful components for the eligible applicant's context;
    - (iv) the eligible applicant's use of a needs assessment in overall plan development; and
    - (v) identification and planned use of evidence-based practices.
- (4) The Superintendent shall select the approved applications to be submitted to the Board and notify all applicants within 45 days.
- (5) The Board shall approve or deny each eligible applicant's application that has been submitted by the Superintendent.
- (6) If the Board denies an eligible applicant's application that has been submitted by the Superintendent, the eligible applicant may amend and re-submit the eligible applicant's application to the Superintendent until the Board approves the application.
- (7) An eligible applicant with an approved application may receive up to the eligible applicant's requested amount up to \$250,000 per year, subject to legislative appropriations.

**R277-327 5. Reporting Requirements.**

- (1) An eligible applicant that has received a School Leadership Implementation Grant as described in Section R277-327-4, shall submit an annual report by May 1 in the form described by the Superintendent.
- (2) An eligible applicant shall report on:
  - (a) the data described in 53F-5-214(5)(b);
  - (b) an accounting of expenditures for the previous year in comparison to the planned budget for that year;
  - (c) an outline of any needed adjustments to the eligible applicant's 5-year plan based upon outcomes and data from the previous year and
  - (d) a detailed implementation plan for the upcoming year.
- (3) The Superintendent shall create an evaluation team to:
  - (a) assist an eligible applicant in collecting and reporting required data;
  - (b) provide determination of continued eligibility; and
  - (c) analyze and report on the eligible applicant's annual report and other data.
- (4) If the evaluation team finds an eligible applicant to be non-compliant with this rule or state code, the eligible applicant is subject to corrective action as described in R277-114.

**KEY:** school leadership, principal, mentorship

**Date of Last Change:** January 5, 2021

**Authorizing, and Implemented or Interpreted Law:** Art X Sec 3; 53E-3-401(4); 53F-5-214]

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: New		
Rule or Section Number:	R277-331	Filing ID: 56721
<b>Agency Information</b>		
1. Title catchline:	Education, Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	

<b>Mailing address:</b>	PO Box 144200	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R277-331. Stipends for Future Educators
<b>3. Purpose of the new rule or reason for the change:</b>
This proposed rule is being created due to due to the passage of H.B. 221 in the 2024 General Session.
<b>4. Summary of the new rule or change:</b>
This new rule establishes the requirements and other program rules consistent with H.B. 221 (2024). Specifically, this new rule sets a stipend amount for student teachers and sets forth procedures for payment.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This proposed rule is not expected to have fiscal impact on state government revenues or expenditures. The funds were appropriated in H.B. 221 (2024) and the fiscal note captured the fiscal impacts for the Utah State Board of Education (USBE) and Local Education Agencies (LEAs). This rule sets the stipend amount based on the available legislative appropriation and follows the intent of H.B. 221 (2024) but does not add other costs for USBE or LEAs.
<b>B) Local governments:</b>
This proposed rule is not expected to have fiscal impact on local governments' revenues or expenditures. The funds were appropriated in H.B. 221 (2024) and the fiscal note captured the fiscal impacts for USBE and LEAs. This rule sets the stipend amount based on the available legislative appropriation and follows the intent of H.B. 221 (2024) but does not add other costs for USBE or LEAs.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
This proposed rule is not expected to have fiscal impact on small businesses' revenues or expenditures. This only affects USBE and LEAs.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):
This proposed rule is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. Eligible student teachers will receive payments due to H.B. 221 (2024). The amount of \$6,000 follows legislative appropriation and intent and USBE believes the impacts for student teachers were captured in the fiscal note to H.B. 221 (2024). Other persons and entities are not affected.

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

There are no compliance costs for affected persons. The funds were appropriated in H.B. 221 (2024) and the fiscal note captured the fiscal impact for USBE and LEAs. The rule sets the stipend amount based on the available legislative appropriation and follows the intent of H.B. 221 (2024) but does not add other costs for USBE, LEAs, or student teachers.

**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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this 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:**

Article X, Section 3	Subsection 53E-3-401(4)	Section 53F-5-223
----------------------	-------------------------	-------------------

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	10/01/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	10/08/2024
---	------------

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	08/15/2024
---	--	--------------	------------

**R277. Education, Administration.**

**R277-331. Stipends for Future Educators.**

**R277-331-1. Authority, Purpose, and Oversight Category.**

(1) This rule is authorized by:

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

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

(c) Section 53F-5-223, which creates a stipend for eligible student teachers and directs the Board to determine how the grant is distributed.

(2) The purpose of this rule is to create rules for distribution of stipends to eligible student teachers.

(3) This Rule R277-331 is categorized as Category 4 as described in Rule R277-111.

**R277-331-2. Definitions.**

(1) "Eligible student teacher" means the same as defined in Section 53F-5-223.

(2) "Program" means the Stipends for Future Educators program established in Section 53F-5-223.

**R277-331-3. Student Teachers Stipends.**

(1) An eligible student teacher may apply for a stipend under the program by filling out an application on a form provided by the Superintendent.

(2)(a) An eligible student teacher shall be a student in a Utah institution of higher education.

(b) An eligible student teacher's university shall confirm the student's enrollment with the Superintendent in order for the teacher to qualify for a program stipend.

(3) An eligible student teacher may only receive a program stipend for student teaching done in a Utah k-12 public school.

(4)(a) The Superintendent shall distribute funds to LEAs under the program of \$6,000 per semester for each eligible student.

(b) The Superintendent may pro rate the stipend for a teacher working in an LEA with a class schedule that varies from a standard two semester school year.

(c) The Superintendent shall determine a schedule for disbursing funds to LEAs with eligible student teachers no less than four times a year.

(5)(a) An eligible student shall receive payment of the stipend through the student teacher's cooperating LEA.

(b) An LEA may not claim indirect costs in relation to this program.

(c) An LEA shall disburse the stipend half at the beginning of the semester and half at the end of the semester.

(d) An LEA shall record an eligible student teacher's placement in CACTUS or USIMS, as appropriate.

(6) An eligible student teacher may do substitute teaching on a part-time basis during the student teaching period.

**KEY: stipends, student teachers**

**Date of Last Change: 2024**

**Authorizing, and Implemented, or Interpreted Law: Art. X, Sec. 3, 53E-3-401(4), 53F-5-223**

**NOTICE OF SUBSTANTIVE CHANGE**

**TYPE OF FILING:** New

**Rule or Section Number:**

**R277-443**

**Filing ID: 56722**

**Agency Information**

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

**General Information**

<b>2. Rule or section catchline:</b>
R277-443. Distribution of Money to Science Outreach Organizations

<b>3. Purpose of the new rule or reason for the change:</b>
This proposed rule is being created due to the passage of H.B. 335 in the 2024 General Session which created significant changes to how POPs and ISEE grant programs are administered.
<b>4. Summary of the new rule or change:</b>
This new rule incorporates changes due to H.B. 335 (2024), which separated the individual program provider appropriations into their own line items in lieu of lumping the providers' funding together in one line item. Because of these changes, a new rule is necessary.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This proposed rule is not expected to have fiscal impact on state government revenues or expenditures. H.B. 335 (2024) created changes in how the ISEE grant program is administered by the Utah State Board of Education (USBE). USBE believes the fiscal impact of the changes were captured in the fiscal note to H.B. 335 (2024) and the rule does not add additional costs for USBE.
<b>B) Local governments:</b>
This proposed rule is not expected to have fiscal impact on local governments' revenues or expenditures. This is a grant program for nonprofit science education organizations and this rule does not directly affect Local Education Agencies (LEAs).
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
This proposed rule is not expected to have fiscal impact on small businesses' revenues or expenditures. This rule only impacts USBE and nonprofit science organizations.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.
<b>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):</b>
This proposed rule is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. H.B. 335 (2024) created changes in how the ISEE grant program is administered by USBE. USBE believes the fiscal impact of the proposed rule were captured in the fiscal note to H.B. 335 (2024) and the rule does not add additional costs for USBE or nonprofit science education organizations.
<b>F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):</b>
There are no compliance costs for affected persons. H.B. 335 (2024) created changes in how the ISee grant program is administered by USBE. USBE believes the fiscal impact of the proposed rule were captured in the fiscal note to H.B. 335 (2024) and the rule does not add additional costs for USBE or nonprofit science education organizations.
<b>G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)</b>

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0



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

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

Article X, Section 3	Subsection 53E-3-401(4)	Section 53E-3-501
----------------------	-------------------------	-------------------

**Public Notice Information**

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

**A) Comments will be accepted until:** 10/01/2024

**9. This rule change MAY become effective on:** 10/08/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	08/15/2024
---	--	--------------	------------

**R277. Education, Administration.**

**R277-443. Distribution of Money to Science Outreach Organizations.**

**R277-443-1. Authority, Purpose, and Oversight Category.**

- (1) This rule is authorized by:
- (a) Utah Constitution Article X, Section 3, which vests general control and supervision of the public school system with the Board;
  - (b) Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities; and
  - (c) Section 53E-3-501, which directs the Board to establish rules and standards for the public schools, including curriculum and instruction requirements.
- (2) The purpose of this rule is to provide for the distribution of money appropriated by the state to a science organization that:
- (a) provides an educational service to a student or teacher; and
  - (b) facilitates a student developing and using the knowledge, skills, and dispositions defined in a science core standard.
- (3) This Rule R277-443 is categorized as Category 3 as described in Rule R277-111.

**R277-443-2. Definitions.**

- (1) "City" has the same meaning as that term is defined in Subsection 10-1-104(1).
- (2) "Community" means the group of persons that have an interest or involvement in the education of a person in kindergarten through grade 12, including:
  - (a) a student, parent, teacher, and administrator; and
  - (b) an association or council that represents a person described in Subsection (2)(a).
- (3) "Core standard" means a standard;

NOTICES OF PROPOSED RULES

- (a) established by the Board in Rule R277-700 as required by Section 53E-3-501; and
- (b) that defines the knowledge and skills a student should have in kindergarten through grade 12 to enable a student to be prepared for college or workforce training.
- (4) "Cost effectiveness" means:
  - (a) maximization of the educational service available through the organization; and
  - (b) not using money received through a program for the necessary maintenance and operational costs of the organization.
- (5)(a) "Educational service" means an in-depth instructional workshop, demonstration, classroom experience, presentation, tour, exhibit, teacher professional development, side-by-side mentoring, hands-on activity, field trip, or teachers resources that:
  - (i) relates to a science core standard and
  - (ii) takes place in a public school, charter school, professional venue, or a facility;
  - (b) "Educational service" may include a distance experience or virtual programming that is provided from a remote location if done in addition to outreach programming.
- (6) "Educational soundness" means an educational service that:
  - (a) is designed with effective science instruction for the grade level being served;
  - (b) features students or teachers engaging in hands-on activities;
  - (c) focuses on a specific science core standard; and
  - (d) shows continuous improvement guided by analysis of an evaluative tool.
- (7) "Fiscal agent" means a city that:
  - (a) is designated by an organization as described in Subsection R277-443-4(4); and
  - (b) acts on behalf of an organization to perform financial or compliance duties.
- (8) "Hands-on activity" means an activity that includes active involvement of a student as a scientist by engaging with practices from the field.
- (9) "Informal Science Education Enhancement program" or "iSEE program" means a program described in Section R277-443-7 for which a science organization may apply to receive money appropriated by the state.
- (10) "Organization" means:
  - (a) a nonprofit corporation organized under:
    - (i) Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act; or
    - (ii) Section 501(c)(3), Internal Revenue Code; and
  - (b) a science organization.
- (11) "Outreach programming" means a type of educational service that is an in-depth classroom experience which includes hands-on activities that relates to a specific science core standard relevant to the classroom's grade level and takes place within a public school or charter school.
- (12) "Procedural efficiency" means the organization delivers the educational service at the lowest cost possible.
- (13) "Professional excellence" means the organization:
  - (a) has an educational team who are well-versed in current scientific knowledge and educational practices;
  - (b) provides educational services which are engaging, inspire curiosity, and interest in science;
  - (c) provides educational services which exhibit educational soundness;
  - (d) provides educational services which are accessible to all who participate, regardless of background or ability; and
  - (e) has a system in place for evaluating the effectiveness of the provided educational services and continuously improves them based on feedback and new research in science education.
- (14)(a) "Program" means the system through which the Board grants money appropriated by the state to an organization to enable the organization to provide its expertise and resources through an educational service in the teaching of a science core standard.
  - (b) "Program" includes:
    - (i) the provisional program; and
    - (ii) the iSEE program;
- (15) "Science organization" means a professional science organization that provides a science-related educational service in the state.

**R277-443-3. Program Application.**

- (1) If the state appropriates money for a program, an organization may apply to receive money from a program:
  - (a) on an application form provided by the Superintendent; and
  - (b) during the fiscal year immediately before the fiscal year in which the organization is to receive the money.
- (2) The application shall include:
  - (a) documentation that the organization is:
    - (i) a nonprofit corporation that has existed at least three consecutive years before the date of the application;
    - (ii) a science organization that has attained professional excellence in the discipline; and
    - (iii) fiscally responsible and can practice procedural efficiency;
  - (b) a description of the matching funds required by Subsection R277-443-4(2);
  - (c) an educational service plan, which describes:
    - (i) the educational service that the organization will use the program money to provide; and
    - (ii) a budget designed for cost effectiveness to effectively provide the educational service; and
  - (d) any supplemental documentation to comply with state law and this rule as requested by the superintendent.
- (3) The Superintendent shall evaluate and approve or deny an application based on:

- (a) whether the organization meets the requirements of this rule; and
- (b) how well the organization's educational service plan meets the purpose of this rule.

**R277-443-4. Grant General Provisions and Disbursement.**

(1) The Superintendent shall disburse the appropriated money to an organization in a form and manner consistent with Section 63G-6b-201 and 301.

(2) An organization that receives money from a program shall have equal matching money from another source to support its delivery of an educational service.

(3)(a) An organization may not charge the school, teacher, or student a fee for the outreach programming for which the organization receives program money.

(b) An organization cannot charge a fee for any educational services that are supported by iSEE funding.

(4)(a) An organization may designate a city as the organization's fiscal agent if:

(i) the city's governing body oversees and monitors the organization and fiscal agent's compliance with program requirements;

(ii) the city complies with board rules;

(iii) the city and the organization use program money for required purposes described in this rule; and

(iv) the city and the organization have an agreement or contract in place regarding the designation of the city as the organization's fiscal agent.

(b) A city fiscal agent may not use program money:

(i) for the city's general administrative purposes; or

(ii) to fund administrative costs to act as the organization's fiscal agent.

(5) The final disbursement of funds may not be made until after the year-end report has been received.

**R277-443-5. Year-end Report - Evaluation -- Accountability -- Variations.**

(1)(a) An organization that receives money from a program shall submit a year-end report to the Superintendent by the required annual deadline.

(b) The year-end report shall include:

(i) documentation of the organization's nonprofit status;

(ii) a budget expenditure report and income source report using a form provided by the Superintendent, including a report and accounting of matching funds and a fee charged, if any, for an educational service;

(iii) a summary of the program's performance measures;

(iv) a record of the dates and places of all educational services provided, the number of hours of educational service per LEA, school, and classroom, as applicable, with the number of students and teachers served, including:

(A) documentation of the schools that have been offered an opportunity to receive outreach programming over a three year period, to the extent possible and consistent with the organization's plan;

(B) a description of the outreach programming, including the content and effective science instructional practices, that are relevant to the grade level being served and a core standard;

(C) a brief description of the educational service provided through the program, and if requested, copies of any material developed; and

(D) a description of how the educational service contributed to a student developing and using the knowledge, skills, and dispositions defined in a science core standard;

(v) a summary of the organization's evaluation of:

(A) cost effectiveness;

(B) procedural efficiency;

(C) collaborative practices;

(D) educational soundness; and

(E) professional excellence.

(vi) a description of the results of an evaluation system as prescribed by the Superintendent and any implemented improvements based on feedback and new research in science education.

(2) The Superintendent may visit an organization to evaluate the effectiveness and preparation of the organization:

(a) before the Superintendent approves an application;

(b) before disbursing money; and

(c) during an educational service.

(3)(a) In addition to the year-end report required by Subsection (1), the Superintendent may require an evaluation or a monitoring procedure demonstrating use of money consistent with state law and this rule.

(b) If the Superintendent finds that an organization did not use money received from a program consistent with state law and this rule, the Board may:

(i) reduce or eliminate the grant to the organization in the current fiscal year;

(ii) deny an organization's participation in a program in a future fiscal year; or

(iii) impose any other consequence the Board deems necessary to ensure the proper use of public funds.

(4)(a) An organization may not deviate from the approved educational service plan for which the organization receives money unless:

(i) the organization submits a written request for variation to the Superintendent;

(ii) the organization receives approval from the Superintendent for the variation; and

NOTICES OF PROPOSED RULES

- (iii) the variation is consistent with state law and this rule.
- (b) An organization shall describe the nature and justification for a variation approved under Subsection (4)(a) in a year-end report.
- (5) The Superintendent shall ensure that participating LEAs receive educational services in a balanced and comprehensive manner over a three year period.
- (6) The year-end report shall only include the educational services that are supported by iSEE funding.

**R277-443-6. Provisional Program Requirements.**

- (1) Through the provisional program, and pending legislative funding, the Board may grant an organization money to enable the organization to:
  - (a) develop outreach programming that is sound;
  - (b) increase the number of students or teachers who receive outreach programming; or
  - (c) expand the geographical location in which the outreach programming is delivered.
- (2) An organization may apply for a provisional program grant each year for up to five years if the organization demonstrates an increase in the educational service between the year-end report and the proposed educational service plan described in the application.
- (3)(a) A science organization may apply for the iSEE program if the organization:
  - (i) has successfully participated in the provisional program for three consecutive years in which the state appropriates money to the provisional program;
  - (ii) has educational staff and the capacity to deliver outreach programming state-wide; and
  - (iii) demonstrates during participation in the provisional program:
    - (A) the quality and improvement of outreach programming;
    - (B) fiscal responsibility;
    - (C) cost effectiveness;
    - (D) procedural efficiency;
    - (E) collaborative practices;
    - (F) educational soundness; and
    - (G) professional excellence.
- (b) An organization shall submit a letter of intent to transition from the provisional program to the iSEE program to the Superintendent by October 1 of the calendar year immediately before the calendar year in which the organization submits the application for the iSEE program.

**R277-443-7. iSEE Program Requirements.**

- (1)(a) Through the iSEE program, the Superintendent may grant money to a science organization to provide an educational service state-wide.
- (b) A grant from the iSEE program is ongoing, subject to the review required by Subsection (3).
- (2) An organization that receives money from the iSEE program may not receive money from the Provisional program in the same fiscal year.
- (3)(a) At least once every four years, the Superintendent shall review and evaluate all organizations' participation in the iSEE program, which may include:
  - (i) evaluation of an educational service plan, or year-end report;
  - (ii) attendance at outreach or a site visit; and
  - (iii) financial monitoring.
- (b) The Superintendent shall:
  - (i) report to the Board the results of the review and evaluation; and
  - (ii) make a recommendation to the Board regarding an organization's continued participation in the program based on how well the organization fulfills the purpose of this rule.
- (4) iSEE organizations shall provide outreach programming as the primary focus, while other educational services are considered secondary. iSEE funding may be used for other educational services, but only as an adjunct to outreach programming.
- (5) Each Utah school with the relevant science core standard of an iSEE program shall be offered an opportunity to receive that program's outreach programming at least once every three years.
- (6) An iSEE program organization shall comply with state law.

**KEY: science, core standards, iSEE, grant programs**

**Date of Last Change: 2024**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-3-501**

<b>NOTICE OF SUBSTANTIVE CHANGE</b>		
<b>TYPE OF FILING:</b> Amendment		
<b>Rule or Section Number:</b>	<b>R277-444</b>	<b>Filing ID: 56723</b>

### Agency Information

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

### General Information

<b>2. Rule or section catchline:</b>
R277-444. Distribution of Money to Arts and Science Organizations
<b>3. Purpose of the new rule or reason for the change:</b>
This rule amendment is needed due to the passage of H.B. 335 in the 2024 General Session which created significant changes to how POPs and ISEE grant programs are administered.
<b>4. Summary of the new rule or change:</b>
This amendment incorporates changes due to H.B. 335 (2024), which separated the individual program provider appropriations into their own line items in lieu of lumping the providers' funding together in one line item.  The amendment also adds an oversight categorization.

### Fiscal Information

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This rule change is not expected to have fiscal impact on state government revenues or expenditures. H.B. 335 (2024) created changes in how the POPS grant program is administered by the Utah State Board of Education (USBE). USBE believes the fiscal impact of the changes were captured in the fiscal note to H.B. 335 (2024) and the rule does not add additional costs for USBE.
<b>B) Local governments:</b>
This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. This is a grant program for arts organizations participating in the POPS program and does not directly impact Local Education Agencies (LEAs).
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. This rule only impacts USBE and arts organizations participating in POPS.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.

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

This rule change is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. H.B. 335 (2024) created changes in how the POPS grant program is administered by USBE. USBE believes the fiscal impacts of the changes were captured in the fiscal note to H.B. 335 (2024) and the rule does not add additional costs for USBE or participating arts organizations.

**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. H.B. 335 (2024) created changes in how the POPS grant program is administered by USBE. USBE believes the fiscal impact of the changes were captured in the fiscal note to H.B. 335 (2024) and the rule does not add additional costs for USBE or participating arts organizations.

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this 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:**

Article X, Section 3	Subsection 53E-3-401(4)	Section 53E-3-501
----------------------	-------------------------	-------------------

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	10/01/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	10/08/2024
---	------------

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

## Agency Authorization Information

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	08/15/2024
---	--	--------------	------------

### R277. Education, Administration.

#### R277-444. Distribution of Money to Arts ~~and Science~~ Organizations.

##### R277-444-1. Authority, ~~and~~ Purpose, and Oversight Category.

- (1) This rule is authorized by:
    - (a) Utah Constitution Article X, Section 3, which vests general control and supervision of the public school system with the Board;
    - (b) Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities; and
    - (c) Section 53E-3-501, which directs the Board to establish rules and standards for the public schools, including curriculum and instruction requirements.
  - (2) The purpose of this rule is to provide for the distribution of money appropriated by the state to an arts ~~or science~~ organization that:
    - (a) provides an educational service to a student or teacher; and
    - (b) facilitates a student developing and using the knowledge, skills, and appreciation defined in an arts ~~or science~~ core standard.
- (3) This Rule R277-444 is categorized as Category 3 as described in Rule R277-111.

##### R277-444-2. Definitions.

- (1) "Arts organization" means a professional artistic organization that provides an educational service related to dance, music, drama, art, visual art, or media art in the state.
- (2) "City" has the same meaning as that term is defined in Subsection 10-1-104(1).
- (3) "Community" means the group of persons that have an interest or involvement in the education of a person in kindergarten through grade 12, including:
  - (a) a student, parent, teacher, and administrator; and
  - (b) an association or council that represents a person described in Subsection (2)(a).
- (4) "Core standard" means a standard:
  - (a) established by the Board in Rule R277-700 as required by Section 53E-3-501; and
  - (b) that defines the knowledge and skills a student should have in kindergarten through grade 12 to enable a student to be prepared for college or workforce training.
- (5) "Cost effectiveness" means:
  - (a) maximization of the educational potential of the resources available through the organization; and
  - (b) not using money received through a program for the necessary maintenance and operational costs of the organization.
- (6)(a) "Educational service" means an in-depth instructional workshop, demonstration, presentation, performance, residency, tour, exhibit, teacher professional development, side-by-side mentoring, or hands-on activity that:
  - (i) relates to an arts ~~or science~~ core standard;
  - (ii) except as provided in Subsection (6)(b), takes place in a public school, charter school, professional venue, or a facility;
- (b) "Educational service" may include a distance experience that is provided from a remote location, or that take place outside of the regular school day, if done in addition to the requirements of Subsection (6)(a).
- (7) "Educational soundness" means an educational service that:
  - (a) is designed for the community and grade level being served, including a suggested preparatory activity and a follow-up activity that are relevant to a core standard;
  - (b) features literal interaction of a student or teacher with an artist ~~or scientist~~;
  - (c) focuses on a specific core standard; and
  - (d) shows continuous improvement guided by analysis of an evaluative tool.
- (8) "Fiscal agent" means a city that:
  - (a) is designated by an organization as described in Subsection R277-444-4(5); and
  - (b) acts on behalf of an organization to perform financial or compliance duties.
- (9) "Hands-on activity" means an activity that includes active involvement of a student with an artist or scientist, ideally with material provided by the organization.
- ~~(10) "Informal Science Education Enhancement program" or "iSEE program" means a program described in Section R277-444-7 for which a science organization may apply to receive money appropriated by the state.~~
- ~~(11) "Organization" means:~~
  - (a) a nonprofit corporation organized under:
    - (i) Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act; or
    - (ii) Section 501(c)(3), Internal Revenue Code; and
  - (b) ~~(i) an arts organization~~ ~~or~~ ~~a science organization~~.
- ~~(12) "Procedural efficiency" means the organization delivers the educational service at the lowest cost possible.~~
- ~~(13) "Professional excellence" means the organization:~~
  - (a) has been juried or reviewed, based on criteria for artistic or scientific excellence, by a panel of recognized and qualified critics in the appropriate discipline;

NOTICES OF PROPOSED RULES

(b) has received a recognition of excellence through an award, a prize, a grant, a commission, or an invitation to participate in a recognized series of presentations in a well-known venue;

(c) includes a recognized and qualified professional in the appropriate discipline who has created an artistic ~~[or scientific]~~ project or composition specifically for the organization to present; or

(d) any combination of criteria described in Subsections (13)(a) through (c).

~~[(14)](13)~~ "Professional outreach programs in the schools program" or "POPS program" means a program described in Section R277-444-7 for which an arts organization may apply to receive money appropriated by the state.

~~[(15)](14)~~(a) "Program" means the system through which the Board grants money appropriated by the state to an organization to enable the organization to provide its expertise and resources through an educational service in the teaching of a core standard.

(b) "Program" includes:

(i) the ~~[P]~~provisional program;

(ii) the POPS program; and

~~[(iii) the iSEE program;~~

~~[(iv) the Integrated Student; and]~~

~~[(iii)]~~(iii) the Subsidy program.

~~[(16) "Science organization" means a professional science organization that provides a science-related educational service in the state.]~~

**R277-444-3. Program Application.**

(1) If the state appropriates money for a program, an organization may apply to receive money from a program:

(a) on an application form provided by the Superintendent; and

(b) during the fiscal year immediately ~~[prior to]~~before the fiscal year in which the organization is to receive the money.

(2) The application shall include:

(a) documentation that the organization is:

(i) a non-profit corporation that has existed at least three consecutive years ~~[prior to]~~before the date of the application;

(ii) an arts organization or a science organization that has attained professional excellence in the discipline;~~[-and]~~

(iii) fiscally responsible; and

~~(iv) can practice procedural efficiency.~~

(b) a description of the matching funds required by Subsection R277-444-4(3);~~[-and]~~

(c) an educational service plan, which describes:

(i) the educational service that the organization will use the program money to provide; and

(ii) a plan to creatively and effectively provide the educational service~~[-]; and~~

~~(d) any supplemental documentation to comply with state law and this rule as requested by the Superintendent.~~

~~(3)(a) The Superintendent shall evaluate [an application with community representatives and make a recommendation on the application to the Board.~~

~~(b) The Board shall]and~~ approve or deny an application based on:

~~(i)](a)~~ whether the organization meets the requirements of this rule; and

~~(ii)](b)~~ how well the organization's educational service plan meets the purpose of this rule.

**R277-444-4. Grant General Provisions and Disbursement.**

(1)~~(a) The Superintendent shall make a recommendation to the Board regarding the grant amount for an organization based on:~~

~~(i) the annual appropriation for a program;~~

~~(ii) the grant amount an organization received in a previous fiscal year, if any;~~

~~(iii) an organization's year-end report, if any; and~~

~~(iv) how well the organization's educational service plan meets the purpose of this rule relative to the other organizations participating in the program.~~

~~(b) If the state reduces the amount of money appropriated for a program from the previous fiscal year, the Board may use its discretion to allocate the money among the organizations participating in the program.~~

~~(2)(a) The Superintendent shall notify an organization of the grant amount within 30 days of the Board meeting in which it is approved, but no earlier than July 1.~~

~~(b)(i) The Superintendent shall disburse the money to an organization after an organization submits a request for reimbursement.~~

~~(ii) An organization shall submit a reimbursement request for education service plan implementation expenses:~~

~~(A) by the annual deadline specified by the Superintendent; and~~

~~(B) in a form prescribed by the Superintendent.] The Superintendent shall disburse the appropriated money to an organization consistent with Sections 63G-6b-201 and 63G-6b-301.~~

~~[(3)](2)~~ An organization that receives money from a program shall have equal matching money from another source to support its delivery of an educational service.

~~[(4)](3)~~(a) Except as provided by Subsection (4)(b), an organization may not charge the school, teacher, or student a fee for the educational service for which the organization receives program money.

(b) An organization that receives money from the Subsidy program may charge a fee for an educational service.

~~[(5)](4)~~(a) An organization may designate a city as the organization's fiscal agent if:

(i) the city's governing body oversees and monitors the organization and fiscal agent's compliance with program requirements;



(ii) the city complies with ~~[b]~~Board rules;

(iii) the city and the organization use program money for required purposes described in this rule; and

(iv) the city and the organization have an agreement or contract in place regarding the designation of the city as the organization's fiscal agent.

- (b) A city fiscal agent may not use program money:
- (i) for the city's general administrative purposes; or
  - (ii) to fund administrative costs to act as the organization's fiscal agent.

~~[(6)](5) An [scientist,]artist, or entity hired or sponsored by an organization to provide an educational service shall comply with the procedures and requirements of this rule.~~

(6) The final disbursement of funds may not be made until after the year-end report has been received.

**R277-444-5. Year-end Report - Evaluation -- Accountability -- Variations.**

(1)(a) An organization that receives money from a program shall submit a year-end report to the Superintendent by the required annual deadline.

(b) The year-end report shall include:

- (i) documentation of the organization's non-profit status;
- (ii) a budget expenditure report and income source report using a form provided by the Superintendent, including a report and accounting of matching funds and a fee charged, if any, for an educational service;
- (iii) a record of the dates and places of all educational services ~~[rendered]~~provided, the number of hours of educational service per LEA, school, and classroom, as applicable, with the number of students and teachers served, including:

(A) documentation of the schools that have been offered an opportunity to receive an educational service over a three year period, to the extent possible and consistent with the organization's plan;

(B) documentation of collaboration with the Superintendent and the community in planning the educational service, including the content, a preparatory activity, and a follow-up activity that are relevant to a core standard;

(C) a brief description of the educational service provided through the program, and if requested, copies of any material developed; and

(D) a description of how the educational service contributed to a student developing and using the knowledge, skills, and appreciation defined in an arts ~~[or science core]~~standard;

(iv) a summary of the organization's evaluation of:

- (A) cost-effectiveness;
- (B) procedural efficiency;
- (C) collaborative practices;
- (D) educational soundness; and
- (E) professional excellence; and

(v) a description of the ~~[resultant goal or plan for continued evaluation and improvement]~~results of an evaluation system prescribed by the Superintendent and any implemented improvements based on feedback.

(2) The Superintendent may visit an organization to evaluate the effectiveness and preparation of the organization:

- (a) before the ~~[Board]~~Superintendent approves an application;
- (b) before disbursing money; and
- (c) during an educational service.

(3)(a) In addition to the year-end report required by Subsection (1), the Superintendent may require an evaluation or an audit procedure from an organization demonstrating use of money consistent with state law and this rule.

(b) If the ~~[Board]~~Superintendent finds that an organization did not use money received from a program consistent with state law and this rule, the ~~[Board]~~Superintendent may:

- (i) reduce or eliminate the grant to the organization in the current fiscal year;
- (ii) deny an organization's participation in a program in a future fiscal year; or
- (iii) impose any other consequence the Board deems necessary to ensure the proper use of public funds.

(4)(a) An organization may not deviate from the approved educational service plan for which the organization receives money unless:

- (i) the organization submits a written request for variation to the Superintendent;
- (ii) the organization receives approval from the Superintendent for the variation; and
- (iii) the variation is consistent with state law and this rule.

(b) An organization shall describe the nature and justification for a variation approved under Subsection (4)(a) in a year-end report.

(5) The Superintendent shall ensure that participating LEAs receive educational services in a balanced and comprehensive manner over a three year period.

**R277-444-6. Provisional Program Requirements.**

(1) Through the Provisional program, and pending legislative funding, the Board may grant an organization money to enable the organization to:

- (a) further develop an educational service that is sound;
- (b) increase the number of students or teachers who receive an educational service; or
- (c) expand the geographical location in which the educational service is delivered.

~~[(2) The Board may grant money from the Provisional program to an organization for one year.]~~

NOTICES OF PROPOSED RULES

~~[(3)](2)~~ An organization may apply for a grant each year for up to five years if the organization demonstrates an increase in the educational service between the year-end report and the proposed educational service plan described in the application.

~~(3)(a)~~ An arts organization may apply for the POPS program if the organization:

~~(i)~~ has successfully participated in the provisional program for three consecutive years in which the state appropriates money to the provisional program;

~~(ii)~~ has educational staff and the capacity to deliver an educational service state-wide; and

~~(iii)~~ demonstrates during participation in the provisional program:

~~(A)~~ the quality and improvement of an educational service;

~~(B)~~ fiscal responsibility;

~~(C)~~ cost-effectiveness;

~~(D)~~ procedural efficiency;

~~(E)~~ collaborative practices;

~~(F)~~ educational soundness; and

~~(G)~~ professional excellence.

~~(b)~~ An organization shall submit a letter of intent to transition from the provisional program to the POPS program to the Superintendent by October 1 of the calendar year immediately before the calendar year in which the organization submits the application for the POPS program.

**R277-444-7. POPS ~~and iSEE~~ Program Requirements.**

(1)(a) Through the POPS program, the Board may grant money to an arts organization to provide an educational service state-wide.

~~[(b) Through the iSEE program, the Board may grant money to a science organization to provide an educational service state-wide.]~~

~~[(e)](b)~~ A grant from the POPS program ~~[or iSEE program]~~ is on[-]going, subject to the review required by Subsection (4).

~~[(2)(a) An arts organization may apply for the POPS program and a science organization may apply for the iSEE program if the organization:~~

~~(i) has successfully participated in the Provisional program for three consecutive years in which the state appropriates money to the Provisional program;~~

~~(ii) has educational staff and the capacity to deliver an educational service state-wide; and~~

~~(iii) demonstrates during participation in the Provisional program:~~

~~(A) the quality and improvement of an educational service; and~~

~~(B) fiscal responsibility.~~

~~(b) An organization shall submit a letter of intent to transition from the Provisional program to the POPS program or the iSEE program to the Superintendent by October 1 of the calendar year immediately before the calendar year in which the organization submits the application for the POPS program or the iSEE program.]~~

~~[(3)](2)~~ An organization that receives money from the POPS program ~~[or iSEE program]~~ may not receive money from the Provisional program or the Subsidy program in the same fiscal year.

~~[(4)](3)(a)~~ At least once every four years, the Superintendent shall review and evaluate all organizations' participation in the POPS program ~~[and the iSEE program]~~, which may include:

~~(i) evaluation of an educational service plan, or year-end report; [- reimbursement form, or audit; and]~~

~~(ii) attendance at an educational service or a site visit [- and;~~

~~(iii) financial monitoring.~~

~~(b) The Superintendent shall:~~

~~(i) report to the Board the results of the review and evaluation; and~~

~~(ii) make a recommendation to the Board regarding an organization's continued participation in the program based on how well the organization fulfills the purpose of this rule.~~

~~(4) Each Utah school shall be offered an opportunity to receive services from each discipline at least once every three years.~~

~~(5) A POPS program organizations shall comply with state law.~~

**R277-444-8. Subsidy Program Requirements.**

(1)(a) Through the Subsidy program, the ~~Board~~ Superintendent may grant money to an organization that provides a valuable education service but does not qualify for participation in another program.

(b) A grant from the Subsidy program is on[-]going, subject to the review required by Subsection (5).

(2)(a) An organization may apply to receive money through the Subsidy program if the organization has successfully participated in the Provisional program for three consecutive years in which the state appropriated money to the Provisional program.

(b) An organization shall submit a letter of intent to transition from the Provisional program to the Subsidy program to the Superintendent:

(A) within the calendar year immediately before the calendar year in which the organization will submit an application for the Subsidy program; and

(B) by the deadline set by the Superintendent.

~~(3) [The Board may approve an application to participate in the Subsidy program if the Board finds the organization:~~

~~(a) has successfully provided a valuable educational service during its participation in the Provisional program; and~~

~~(b) does not meet the requirements to participate in the POPS program or iSEE program because the organization:~~

~~(i) delivers an educational service regionally instead of state-wide; or~~

- ~~(ii) charges a fee for an educational service.]An arts organization may apply for the Subsidy program if the organization:~~
- ~~(a) has successfully provided a valuable educational service during its participation in the Provisional program; and~~
- ~~(b) does not meet the requirements to participate in the POPS program because the organization:~~
  - ~~(i) delivers an educational service regionally instead of state-wide; or~~
  - ~~(ii) charges a fee for an educational service.~~
  - ~~(c) demonstrates during participation in the Provisional program:~~
    - ~~(i) the quality and improvement of an educational service;~~
    - ~~(ii) fiscal responsibility;~~
    - ~~(iii) cost-effectiveness;~~
    - ~~(iv) procedural efficiency;~~
    - ~~(v) collaborative practices;~~
    - ~~(vi) educational soundness; and~~
    - ~~(vii) professional excellence.~~
- (4) An organization that receives money from the Subsidy program may not receive money from ~~the~~ another program in the same fiscal year.
- (5)(a) At least once every four years, the Superintendent shall review and evaluate all organizations' participation in the Subsidy program, which may include:
  - (i) evaluation of an educational service plan, year-end report, reimbursement form, or audit; and
  - (ii) attendance at an educational service or a site visit.
- (b) The Superintendent shall:
  - (i) report to the Board the results of the review and evaluation; and
  - (ii) make a recommendation to the Board regarding an organization's continued participation in the Subsidy program based on how well the organization fulfills the purpose of this rule.

**KEY: arts, science, core standards, POPS, grant program**  
**Date of Last Change: 2024[August 12, 2020]**  
**Notice of Continuation: August 13, 2015**  
**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-3-501**

NOTICE OF SUBSTANTIVE CHANGE		
<b>TYPE OF FILING:</b> Amendment		
<b>Rule or Section Number:</b>	R277-464	<b>Filing ID:</b> 56724

**Agency Information**

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

**General Information**

<b>2. Rule or section catchline:</b>
R277-464. School Counselor Direct and Indirect Services.
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being amended to update the document incorporated by reference to match the recently approved rule changes.

**4. Summary of the new rule or change:**  
 The rule amendments specifically update the incorporated document publication date, and the amendment to the incorporated document make updates that reflect the rule changes, including changes in wording from "Systemic Approach to" to "Dropout Prevention and Responsive Services and Supports".

**Fiscal Information**

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

**A) State budget:**

This rule change is not expected to have fiscal impact on state government revenues or expenditures. The changes to the incorporated document do not have fiscal impacts for the Utah State Board of Education (USBE) and Local Education Agencies (LEAs). The changes simply update best practices for school counselors and have no measurable fiscal impact.

**B) Local governments:**

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. The changes to the incorporated document do not have fiscal impacts for USBE and LEAs. The changes simply update best practices for school counselors and have no measurable fiscal impact.

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

This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. This only impacts USBE and LEAs.

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

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

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

This rule change is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The changes to the incorporated document do not have fiscal impacts for USBE and LEAs or other entities. The changes simply update best practices for school counselors and have no measurable fiscal impact.

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

There are no compliance costs for affected persons. The changes to the incorporated document do not have fiscal impacts for USBE and LEAs or other entities. The changes simply update best practices for school counselors and have no measurable fiscal impact.

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

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

Article X, Section 3	Subsection 53E-3-401(4)	Section 53E-3-518
----------------------	-------------------------	-------------------

**Incorporations by Reference Information**

**7. Incorporations by Reference:**

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

<b>Official Title of Materials Incorporated (from title page)</b>	School Counselor Services Document
<b>Publisher</b>	Utah State Board of Education
<b>Issue Date</b>	August 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:** 10/01/2024

**9. This rule change MAY become effective on:** 10/08/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	08/15/2024
---	--	--------------	------------

**R277. Education, Administration.**

**R277-464. School Counselor Direct and Indirect Services.**

**R277-464-1. Authority, Purpose, and Oversight Category.**

- (1) This rule is authorized by:
  - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
  - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
  - (c) Section 53E-3-518, which directs the Board to make rules specifying:
    - (i) the recommended direct and indirect services a school counselor may provide;
    - (ii) the recommended amount of time a school counselor may spend on direct and indirect services; and
    - (iii) activities for a school counselor.
- (2) The purpose of this rule is to establish standards and time limits for direct and indirect services provided by a school counselor within an LEA.
- (3) This Rule R277-464 is categorized as Category 2 as described in Rule R277-111.

NOTICES OF PROPOSED RULES

**R277-464-2. Definitions.**

- (1) "Direct services" means services provided to a student consistent with the School Counselor Services document incorporated by reference in Section R277-464-3.
- (2) "Indirect services" means all other services consistent with the School Counselor Services document incorporated by reference in Section R277-464-3.
- (3) "Non-school counselor activities" means activities inconsistent with direct and indirect services and deemed inappropriate consistent with the School Counselor Services document incorporated by reference in Section R277-464-3.
- (4) "School counselor" means the same as the term is defined in Subsection R277-462-2(3).

**R277-464-3. Incorporation of School Counselor Services Document.**

- (1) This rule incorporates by reference the School Counselor Services Document, [~~February 2024~~] August 2024, which lists approved direct services and indirect services provided by a school's counseling program.
- (2) A copy of the School Counselor Services Document is located at:
  - (a) <https://schools.utah.gov/administrativerules/documentsincorporated>; and
  - (b) the Utah State Board of Education - 250 East 500 South, Salt Lake City, Utah 84111.

**R277-464-4. Time Allotment for Direct and Indirect Services.**

- (1) An LEA shall ensure the time allotment for implementation of a school's program be allocated in the following ways:
  - (a) 85% of a school program's aggregate time is devoted to providing direct services to students, including:
    - (i) collaborative classroom instruction;
    - (ii) assisting in creating a plan for college and career readiness;
    - (iii) dropout prevention efforts, including student social and emotional supports; and
    - (iv) providing supports for a student's needs consistent with the program; and
  - (b) no more than 15% of a school program's aggregate time is devoted to indirect services including:
    - (i) faculty meetings;
    - (ii) administrative duties related to the program;
    - (iii) professional development of a school counselor; and
    - (iv) leadership meetings.
- (2) An LEA shall ensure all direct and indirect services are consistent with the listed appropriate usage of time provided in the School Counselor Services document incorporated by reference in Section R277-464-3.
- (3) An LEA shall ensure all appropriate and prohibited inappropriate activities are consistent with the School Counselor Services document incorporated by reference in Section R277-464-3, including the elimination of non-school counseling duties such as test coordination and administration.
- (4) An LEA that receives funds pursuant to Rule R277-462 shall be subject to the requirements of this rule and all additional requirements as described in Rule R277-462.

**R277-464-5. Annual Assurance and Compliance.**

An LEA shall provide an annual assurance of intent to comply with the time allocation described in Section R277-464-4 through the annual assurances document described in Rule R277-108.

**KEY: school counselors, services**

**Date of Last Change:** [~~June 7,~~] 2024

**Notice of Continuation:** April 15, 2024

**Authorizing, and Implemented or Interpreted Law:** Art X Sec 3; 53E-3-401(4); 53E-3-518

NOTICE OF SUBSTANTIVE CHANGE		
<b>TYPE OF FILING:</b> Amendment		
<b>Rule or Section Number:</b>	<b>R277-477</b>	<b>Filing ID: 56725</b>

Agency Information	
<b>1. Title catchline:</b>	Education, Administration
<b>Building:</b>	Board of Education
<b>Street address:</b>	250 E 500 S
<b>City, state:</b>	Salt Lake City, UT 84111
<b>Mailing address:</b>	PO Box 144200
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4200

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

**General Information**

<b>2. Rule or section catchline:</b>
R277-477. Distributions of Funds from the Trust Distribution Account and Administration of the School LAND Trust Program
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being amended due to the passage of H.B. 82, Public Education Program Modifications, during the 2024 General Session which changed the requirement of how a Trust Lands Plan is approved.
<b>4. Summary of the new rule or change:</b>
The amendments specifically changed the definition of "approving entity" for Charter schools and removes the definition for "digital citizenship."
The sections were also rearranged to put all of the legal requirements for charter schools in one section for easier reference by the field and follow the logical order of the Trust Land application process

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This rule change is not expected to have fiscal impact on state government revenues or expenditures. The rule incorporates necessary changes from H.B. 82 and H.B. 339 (2024). The Utah State Board of Education (USBE) believes the associated fiscal impacts were captured in the fiscal notes to H.B. 82 and H.B. 339 (2024).
The rule change also provides guidance on scenarios where a charter school may not qualify for funds or closes. Adding any such undistributed balance to the total charter school distribution may provide a small amount of additional funds for charter schools but is not estimated to materially impact Local Education Agency (LEA) budgets.
<b>B) Local governments:</b>
This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. The rule incorporates necessary changes from H.B. 82 and H.B. 339 (2024) USBE believes the associated fiscal impacts were captured in the fiscal notes to H.B. 82 and H.B. 339 (2024)
The rule change also provides guidance on scenarios where a charter school may not qualify for funds or closes. Adding any such undistributed balance to the total charter school distribution may provide a small amount of additional funds for charter schools but is not estimated to materially impact LEAs.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. This only impacts USBE and LEAs.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.

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

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

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

There are no compliance costs for affected persons. The rule incorporates necessary changes from H.B. 82 and H.B. 339 (2024). USBE believes the associated fiscal impacts were captured in the fiscal notes to HB 82 and HB 339. The rule change also provides guidance on scenarios where a charter school may not qualify for funds or closes. Adding any such undistributed balance to the total charter school distribution may provide a small amount of additional funds for charter schools but is not estimated to materially impact LEAs.

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this 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:**

Article X, Section 3	Section 53E-3-401	Section 53F-2-404
----------------------	-------------------	-------------------

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	10/01/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	10/08/2024
---	------------

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



### Agency Authorization Information

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	08/15/2024
---	--	--------------	------------

**R277. Education, Administration.**

**R277-477. Distributions of Funds from the Trust Distribution Account and Administration of the School LAND Trust Program.**

**R277-477-1. Authority, ~~and~~ Purpose, and Oversight Category.**

- (1) This rule is authorized by:
    - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
    - (b) Subsection 53F-2-404(2)(d), which allows the Board to adopt rules regarding the time and manner in which a student count shall be made for allocation of funds; and
    - (c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.
  - (2) In accordance with Section 53D-2-202, through representation on the Land Trusts Protection and Advocacy Committee, the Board exercises trust oversight of:
    - (a) the Common School Trust;
    - (b) the School for the Deaf Trust; and
    - (c) the School for the Blind Trust.
  - (3) The Board implements the School LAND Trust program and provides oversight, support, and training for school community councils and Charter Trust Land Councils consistent with Section 53G-7-1206, Rule R277-491, and this Rule R277-477.
  - (4) The purpose of this rule is to:
    - (a) provide financial resources to a public school to implement a component of a school's Teacher and Student Success Plan to enhance and improve student academic achievement;
    - (b) provide a means to involve a parent of a school's student in decision-making regarding the expenditure of School LAND Trust program funds allocated to the school;
    - (c) provide direction in the distribution of funds from the Trust Distribution Account, as funded in Section 53F-2-404;
    - (d) provide for appropriate and adequate oversight of the expenditure and use of funds by an approving entity, school administration, and the Board;
    - (e) provide for proper allocation of funds as stated in Section 53F-2-404, and the appropriate and timely distribution of the funds;
    - (f) enforce compliance with statutory and rule requirements, including the responsibility for a school community council to notify school community members regarding the use of funds; and
    - (g) define the roles, duties, and responsibilities of the Superintendent with regards to the School Children's Trust.
- (5) This Rule R277-477 is categorized as Category 4 as described in Rule R277-111.

**R277-477-2. Definitions.**

- (1) "Approving entity" means a school district board or a ~~charter authorizer~~ budget officer whom the school governing board appoints consistent with Section 53G-7-1206.
- (2) "Board plan approval meeting" means the meeting when the LEA governing board approves a school plan for the upcoming school year.
- (3)(a) "Charter trust land council" means a council comprised of a two person majority of parents or grandparents of students attending the charter school, elected by parents of students attending the charter school, convened to act in lieu of the school community council for the charter school.
  - (b) "Charter trust land council" includes a charter school governing board if:
    - (i) the charter governing board meets the two-parent majority requirement; and
    - (ii) the charter school governing board chooses to serve as the charter trust land council.
- (4) "Council" means a school community council or a charter trust land council.
- (5) "Council plan approval meeting" means the meeting where a charter trust land council or school community council approves the school plan for the upcoming school year.
- ~~[(6) "Digital citizenship" means the same as that term is defined in Section 53G-7-1202.]~~
- ~~[(7)](6)~~ "Fall enrollment report" means the audited census of students registered in Utah public schools as reported in the audited October 1 Fall Enrollment Report of the previous year.
- ~~[(8)](7)~~ "Funds" means School LAND Trust program funding as defined in Section 53F-2-404.
- ~~[(9)](8)~~ "Most critical academic need" means an academic need, consistent with the core standards in Rule R277-700, identified by a council through the annual review of schoolwide assessment data and other relevant indicators.
- ~~[(10)](9)~~ "Newly opened charter school" means a charter school in its first two years of operation.
- ~~[(11)](10)~~ "Newly opened satellite school" means a satellite school in its first two years of operation.
- ~~[(12)](11)~~ "Parent," for a charter school, includes a grandparent of a student currently enrolled at the school.
- ~~[(13)](12)~~(a) "Principal" means an administrator licensed as a principal in the state and employed in that capacity at a school.
- (b) "Principal" includes the director of a charter school.
- ~~[(14)](13)~~ "Satellite charter school" has the same meaning as that term is defined in Section R277-550-2.
- ~~[(15) "School safety principles" has the same meaning as described in Section 53G-7-1202.]~~
- ~~[(16)](14)~~ "Student" means a child in public school grades kindergarten through 12 counted on the fall enrollment report of an LEA.

NOTICES OF PROPOSED RULES

- [~~(17)~~](15) "Teacher and Student Success Plan" or "TSSP" means the plan required of each school under Section 53G-7-1305.
- [~~(18)~~](16) "Trust Distribution Account" means the restricted account within the Uniform School Fund created under Subsection 53F-9-201(2).
- [~~(19)~~](17) "UPEFS" means the Utah Public Education Finance System.
- [~~(20)~~](18) "Website" means the School LAND Trust website.

**R277-477-3. Program Requirements for Charter Schools.**

- (1) A charter school that elects to receive School LAND Trust funds shall have a charter trust land council consistent with Section 53G-7-1205.
- (2) A Charter Board and a Charter Trust Lands Council shall receive training about Section 53G-7-1206 and this rule.
- (3) A charter governing board that is not the charter trust land council shall establish a process for the election of the charter trust land council that includes:
  - (a) the number of parent or grandparent members, the number of 'other members', and the definition of each 'other member' to be elected to serve on the council;
  - (b) the terms of each position;
  - (c) a timeframe for the election;
  - (d) a process for noticing and conducting the election of council members elected by parents of students enrolled at the charter school consistent with Section R277-477-2; and
  - (e) the process for filling unfilled seats following an election or when a member resigns.
- (4) In the election process, if the number of candidates who file for a position on a charter trust land council is less than or equal to the number of open positions, an election is not required.
- (5) A charter trust land council that is not a charter governing board shall:
  - (a) be subject to Section 53G-7-1203;
  - (b) have parent or grandparent members elected by parents of students attending the charter school; and
  - (c) post the following items on the school's website by October 20 annually:
    - (i) an invitation to parents to serve on the Charter Trust Land Council;
    - (ii) the election process to establish a Charter Trust Land Council consistent with this section;
    - (iii) the dollar amount the school receives each year from the School LAND Trust program;
    - (iv) a copy or link to the current Teacher and Student Success Plan;
    - (v) approved minutes of Charter Trust Land Council meetings for at least a year;
    - (vi) the proposed council meetings scheduled for the school year;
    - (vii) a means to contact the members of the school's Charter Trust Land Council directly;
    - (viii) a link or copy of the final reports of the school for the last two years, as required by Subsection 53G-7-1206(5); and
    - (ix) a link or copy of the school plan for the current year.
- (6) The principal of a charter school that elects to receive School LAND Trust funds shall submit a plan, approved by the school's governing board, and the charter school budget officer on the School LAND Trust website:
  - (a) no later than May 1; or
  - (b) for a newly opening charter school, no later than November 1 in the school's first year to receive funding in the year the newly opening charter school opens.

**R277-477-~~[3]~~4. ~~[Distribution of Funds – Local Board or Local Charter Board Approval of School LAND Trust Plans]School LAND Trust Plan Submission and Approval.~~**

- (1) A public school receiving School LAND Trust program funds shall have:
  - (a) a school community council as required by Section 53G-7-1202 and Rule R277-491; or
  - (b) a charter school trust land council as required by Section 53G-7-1205~~[- or~~
  - ~~(c) an approved exemption under this rule].~~
- (2) Notwithstanding Subsection (1)(a), the USDB Advisory Council may fill the responsibilities of a school community council for USDB.
- (3) A public school receiving School LAND Trust program funds shall submit a membership form demonstrating compliance with the required membership in Subsection (1) that includes a principal assurance consistent with Subsection 53G-7-1206(3)(c) by October 20 annually.
- ~~(4) A charter school that elects to receive School LAND Trust funds shall:~~
  - ~~(a) have a charter trust land council consistent with Section 53G-7-1205; and~~
  - ~~(b) receive training about Section 53G-7-1206.~~
- ~~(5) A charter trust land council that is not a charter governing board shall:~~
  - ~~(a) be subject to Section 53G-7-1203;~~
  - ~~(b) have parent or grandparent members elected by parents of students attending the charter school; and~~
  - ~~(c) post the following items on the school's website by October 20 annually:~~
    - ~~(i) an invitation to parents to serve on the Charter Trust Land Council;~~
    - ~~(ii) the dollar amount the school receives each year from the School LAND Trust program;~~
    - ~~(iii) a copy or link to the current Teacher and Student Success Plan;~~
    - ~~(iv) approved minutes of Charter Trust Land Council meetings for at least a year;~~

~~(v) the proposed council meeting scheduled for the school year;~~  
~~(vi) a means to contact the members of the school's Charter Trust Land Council directly;~~  
~~(vii) a link or copy of the final reports of the school for the last two years, as required by Subsection 53G-7-1206(5);~~  
~~(viii) a link or copy of the school plan for the current year.~~  
~~(6) A charter school that is a small or special school may receive an exemption from the charter land trust council composition requirements contained in Section 53G-7-1205 upon application to the school's authorizer if the small or special school demonstrates and documents a good faith effort to recruit members to the charter trust land council.~~  
~~(7) The principal of a charter school that elects to receive School LAND Trust funds shall submit a plan, approved by the school's governing board, to the approving entity on the School LAND Trust website:~~  
~~(a) no later than April 1 for schools authorized by the State Charter School Board; or~~  
~~(b) for a newly opening charter school, no later than November 1 in the school's first year to receive funding in the year the newly opening charter school opens.~~  
~~(8)(a) An approving entity:~~  
~~(i) shall consider a plan annually; and~~  
~~(ii) may approve or disapprove a school plan.~~  
~~(b) If an approving entity does not approve a plan, the approving entity shall:~~  
~~(i) provide a written explanation why the approving entity did not approve the plan; and~~  
~~(ii) request that the school revise the plan, consistent with Subsection 53G-7-1206(4)(d).]~~  
~~[(9)](4)(a) To receive funds, the principal of a public school shall submit a School LAND Trust plan to the approving entity annually through the School LAND Trust website using the form provided.~~  
~~(b) The Board may grant an exemption to a school using the Superintendent-provided form, described in Subsection [(8)](4)(a), on a case-by-case basis.~~  
~~[(10) In addition to the requirements of Subsection (7), the School LAND Trust plan described in Subsections (6) and (8)(a) shall include the date the council voted to approve the plan.]~~  
~~[(44)](5)(a) The principal of a school shall ensure that a council member has an opportunity to provide a signature indicating the member's involvement in implementing the current School LAND Trust plan and developing the school plan for the upcoming year.~~  
~~(b) The principal shall collect a council member's signature at the Council plan approval meeting or at a later time consistent with LEA policies.~~  
~~(c) A school shall retain signatures collected under Subsection [(44)](5)(b) for no less than three years.~~  
~~(d) A school shall provide copies of signatures collected under Subsection [(44)](5)(b) to the LEA governing board [prior to]before the Board plan approval meeting.~~  
~~(e) An approving entity may design the approving entity's own form to collect the information required by this Subsection [(44)](5).~~  
~~(f) A charter board that serves as a charter trust land council is exempt from the requirement of collecting signatures as outlined in this Subsection (5)(b).~~  
~~[(42)](6)(a) An approving entity for a district school or a charter school [authorized by an authorizer other than the State Charter School Board]shall establish a timeline, including a deadline, for a school to submit a school's School LAND Trust plan.~~  
~~(b) A timeline described in Subsection [(40)](6)(a) shall:~~  
~~(i) require a school's School LAND Trust plan to be submitted to the approving entity with sufficient time so that the approving entity may approve the school's School LAND Trust plan no later than May 15 of each year for a district school or May 1 of each year for a charter school; and~~  
~~(ii) allow sufficient time for a council to reconsider and amend the council's School LAND Trust plan if the approving entity rejects the school's plan and still allow the school to meet the May 15 [approving entity's]date for a district school or May 1 for a charter school consistent with this subsection[approval deadline].~~  
~~(7)(a) An approving entity:~~  
~~(i) shall consider a plan annually; and~~  
~~(ii) may approve or disapprove a school plan.~~  
~~(b) If an approving entity does not approve a plan, the approving entity shall:~~  
~~(i) provide a written explanation why the approving entity did not approve the plan; and~~  
~~(ii) request that the school revise the plan, consistent with Subsection 53G-7-1206(4)(d).~~  
~~[(e)](8) After an approving entity has completed the approving entity's review, the approving entity shall notify the Superintendent that the review is complete.~~  
~~[(e)](9) For an LEA to receive its full distribution in July, the LEA shall submit plans with all required approvals online no later than May 15 for a district school and May 1 for a charter school.~~  
~~[(43)](10)(a) [Prior to]Before approving a plan, an approving entity shall review a School LAND Trust plan under the approving entity's purview to confirm that a School LAND Trust plan contains:~~  
~~(i) academic goals;~~  
~~(ii) specific steps to meet the academic goals described in Subsection (11)(a)(i);~~  
~~(iii) measurements to assess improvement; and~~  
~~(iv) specific expenditures focused on student academic improvement needed to implement plan goals.~~  
~~(v) an explanation for any planned carry-over that exceeds one-tenth of a school's allocation in the plan; and~~  
~~(vi) the date a council approved the plan.~~

## NOTICES OF PROPOSED RULES

(b) The approving entity shall determine whether a School LAND Trust plan is evidence-based and consistent with the approving entity's pedagogy, programs, and curriculum.

(c) The president or chair of the approving entity shall provide training annually on the requirements of Section 53G-7-1206 to the members of the approving entity.

(11) By approving a plan on the School LAND Trust website, the approving entity affirms that:

(a) the entity has reviewed the plan; and

(b) the plan meets the requirements of statute and rule.

~~[(14)](12)~~(a) After receiving the notice described in Subsection (10)(c), the Superintendent shall review each School LAND Trust plan for compliance with the law governing School LAND Trust plans.

(b) The Superintendent shall report back to the approving entity concerning which School LAND Trust plans were found to be out of compliance with the law.

(c) An approving entity shall ensure that a School LAND Trust plan that is found to be out of compliance with the law by the Superintendent is amended or revised by the council to bring the school's School LAND Trust plan into compliance with the law.

(13) A school shall implement a plan as approved.

~~[(15)](14)~~ If an approving entity fails to comply with Subsection (12)(c), Superintendent may report the failure to the Audit Committee of the Board as described in Section R277-477-8.

### **R277-477-[4]5. Appropriate Use of School LAND Trust Program Funds.**

(1) Parents, teachers, and the principal, in collaboration with an approving entity, shall review school wide assessment data annually and use School LAND Trust program funds in data-driven and evidence-based ways to improve educational outcomes, consistent with the academic goals of the school's teacher and student success plan framework under Section 53G-7-1304 and the priorities of the LEA governing board, including:

(a) strategies that are measurable and show academic outcomes with multi-tiered systems of support; and

(b) counselors and educators working with students and families on academic and behavioral issues when a direct impact on academic achievement can be measured.

(2) A school's School LAND Trust program expenditures shall have a direct impact on the instruction of students in the particular school's areas of most critical academic need and consistent with the academic priorities of the LEA's governing board:

(a) to increase achievement in:

(i) English;

(ii) language arts;

(iii) mathematics; and

(iv) science; and

(b) for secondary schools to:

(i) increase graduation rates; and

(ii) promote college and career readiness.

(3) A school may not use School LAND Trust program funds for the following:

(a) costs related to district or school administration, including accreditation;

(b) expenses for:

(i) construction;

(ii) maintenance;

(iii) facilities;

(iv) overhead;

(v) furniture;

(vi) storage of personal student property;

(vii) security; or

(viii) athletics; or

(c) expenses for non-academic in-school, co-curricular, or extracurricular activities.

(4) A school that demonstrates appropriate progress and achievement consistent with the academic priorities of the LEA governing board outlined in Subsection (2) may request local board approval of a plan to address other academic goals if the plan includes:

(a) how the goal is in accordance with the core standards established in Rule R277-700;

(b) how the action plan for the goal is:

(i) data-driven;

(ii) evidence-based; and

(iii) has a direct impact on the instruction of students consistent with Subsections (1) and (2);

(c) the data driving the decision to spend School LAND Trust funds for academic needs outlined in this Subsection (4); and

(d) the anticipated data source the school will use to measure progress.

(5) A school district or local school board may not require a council or school to spend the school's School LAND Trust program funds on a specific use or set of uses.

(6) Student incentives implemented as part of an academic goal in the School LAND Trust program may not exceed \$2 per student in an academic school year.

**R277-477-~~5~~6. Distribution of Funds - Determination of Proportionate Share.**

- (1) An LEA shall report the prior year expenditure of distributions for each school.
- (2) The total expenditures each year described in Subsection (1) may not be greater than the total available funds for an LEA.
- (3)(a) In an unanticipated circumstance, a school within an LEA may be allowed a small advance from a school's allocation for the next fiscal year when:
  - (i) the LEA has unspent School LAND Trust funds to cover the advance; and
  - (ii) the LEA governing board approves the advance.
- (b) If a school receives an advance under Subsection (3)(a):
  - (i) the LEA shall decrease the beginning allocation to the school for the next fiscal year in the same amount as the advance; and
  - (ii) restore the same advance amount to the unspent School LAND Trust funds of the LEA.
- (c) A school's beginning School LAND Trust funds balance for a new school year shall be:
  - (i) the school's allocation for the new school year;
  - (ii) minus any advance approved under Subsection (3)(a);
  - (iii) plus any carry-over from the prior year.
- (4) A school district shall adjust the current year distribution of funds received from the School LAND Trust program as described in Section 53F-2-404, as necessary to maintain an equal per student distribution within a school district based on:
  - (a) school openings and closings;
  - (b) boundary changes; and
  - (c) other enrollment changes occurring after the fall enrollment report.
- (5) An LEA shall provide the current year distribution and carry-over amount from the prior school year to the principal by October 1 annually.
  - (6) A charter school and each of the charter school's satellite charter schools are a single LEA for purposes of public school funding.
  - (7)(a) For purposes of this section, "qualifying charter school" means a charter school that:
    - (i) would receive more funds from a per pupil distribution than the charter school receives from the base payment described in Subsection ~~[(6)(e)]~~(9); and
    - (ii) is not a newly opening charter school as described in Subsection ~~[(7)(11)(a)]~~.
  - (b) The Superintendent shall distribute the funds allocated to charter schools:
    - ~~(i) as described in this Subsection [(7)(9)]-; and~~
    - ~~(ii) is consistent with the March 1 calculation for existing and new charter schools.~~
  - (8) The Superintendent shall add any unused balance to the total charter school distribution amount for the following fiscal year for charter schools if a charter school:
    - ~~(a) chooses not to apply for funds;~~
    - ~~(b) does not meet the requirements for receiving funds;~~
    - ~~(c) does not open as scheduled;~~
    - ~~(d) closes; or~~
    - ~~(e) has other unforeseen circumstances.~~
  - ~~[(e)](9) The Superintendent shall first distribute a base payment to each charter school that is equal to the product of:~~
    - ~~[(+)](a) an amount equal to the total funds available for all charter schools; and~~
    - ~~[(+)](b) at least 0.4%.~~
  - ~~[(d)](10) After the Superintendent distributes the amount described in Subsection (6)(c), the Superintendent shall distribute the remaining funds to qualifying charter schools on a per pupil basis.~~
  - ~~[(8)](11)(a) The Superintendent shall distribute an amount of funds to a newly opening charter school that is either:~~
    - ~~(i) the base payment described in Subsection ~~[(7)(e)]~~(9); or~~
    - ~~(ii) a per pupil amount based on the newly opened charter school's projected October 1 enrollment count.~~
  - ~~(b)(i) The governing board of a newly opening charter school shall notify the Superintendent by March 1 preceding the school's first year of operation, which option under Subsection (8)(a) the school elects to receive.~~
  - ~~(ii) If a school fails to notify the Superintendent as required under Subsection (b)(i), the school shall receive the base payment described in Subsection (6)(c) in the school's first year of operation.~~
  - ~~(c) The Superintendent shall increase or decrease a newly opening charter school's first year distribution of funds in the school's second year to reflect the newly opening charter school's actual first year October 1 enrollment.~~
  - ~~[(9)](12)(a) The Superintendent shall distribute an amount of funds to a newly opening satellite school equal to the base payment described in Subsection (6)(c).~~
  - ~~(b) The Superintendent shall increase or decrease a newly opening satellite school's first year distribution of funds in the school's second year to reflect the newly opening satellite school's actual first year October 1 enrollment.~~

**R277-477-~~6~~7. School LAND Trust Program - ~~Implementation of Plans and Required Reporting~~Plan Amendments and Final Reports.**

- ~~[(1)](1) A school shall implement a plan as approved.]~~

NOTICES OF PROPOSED RULES

~~[(2)]~~(1)(a) The principal shall submit a plan amendment authorized by Subsection 53G-7-1206(4)(d)(iii) through the School LAND Trust website for approval, including the date the council approved the amendment and the number of votes for, against, and absent.

(b) The approving entity shall:

- (i) consider the amendment for approval;
- (ii) approve an amendment before the school uses funds according to the amendment; and
- (iii) notify the Superintendent an amendment is ready for review.

(c) The Superintendent shall review an amendment for compliance with statute and rule before the school uses funds according to the amendment.

~~(2) A principal shall submit a final report on the School LAND Trust website annually before a School LAND Trust plan for the coming school year is submitted.~~

~~(3)(a) A district or charter school business official shall enter prior year audited expenditures of School LAND Trust funds through UPEFS consistent with UPEFS requirements and timelines.~~

~~(b) The expenditure data shall appear in the final report submitted online by a principal, as required by Subsection 53G-7-1206(5)(b).~~

~~[(3)(a)]~~(4) A school shall provide an explanation for any carry-over that exceeds one-tenth of the school's allocation in a given year in the School LAND Trust ~~[Plan or]~~ final report.

~~(5) An approving entity shall ensure that a final report includes:~~

~~(a) clear explanations of plan implementations and expenditures; and~~

~~(b) meets the confidentiality requirements of Rule R277-487 before March 1 to allow the review required by Section R277-477-7.~~

~~[(b)]~~(6)(a) The Superintendent shall recommend a district or school with a consistently large carry-over balance over multiple years for corrective action for not making adequate and appropriate progress on an approved plan.

~~[(c)]~~(b) The Superintendent may take corrective action to remedy excessive carry-over balances consistent with Rule R277-114.

~~[(4)]~~ By approving a plan on the School LAND Trust website, the approving entity affirms that:

~~(a) the entity has reviewed the plan; and~~

~~(b) the plan meets the requirements of statute and rule.~~

~~(5)(a) A district or charter school business official shall enter prior year audited expenditures of School LAND Trust funds through UPEFS consistent with UPEFS requirements and timelines.~~

~~(b) The expenditure data shall appear in the final report submitted online by a principal, as required by Subsection 53G-7-1206(5)(b).~~

~~(6) A principal shall submit a final report on the School LAND Trust website annually before a School LAND Trust plan for the coming school year is submitted.~~

~~(7) An approving entity shall ensure that a final report includes clear explanations of plan implementation and expenditures and meets the confidentiality requirements of Rule R277-487 prior to March 1 to allow the review required by Section R277-477-7.]~~

~~[(8)]~~(7) An LEA shall provide an annual report to its governing board on the implementation of each school's prior year School LAND Trust plans by March 1 annually.

**R277-477-~~7]~~8]. Compliance Review.**

(1) The Superintendent may visit a school receiving funds from the School LAND Trust program to discuss the program, receive information and suggestions, provide training, and answer questions.

(2)(a) The Superintendent shall supervise annual compliance reviews to review expenditure of funds consistent with the approved plan, final report, applicable amendments, allowable expenses, and the law.

(b) The Superintendent shall annually provide a written report to the Board Finance Committee on compliance review findings and other compliance issues.

**R277-477-~~8]~~9]. Superintendent Responsibilities.**

The Superintendent shall:

(1) represent the Board on the Land Trusts Protection and Advocacy Committee in accordance with Section 53D-2-202;

~~[(2)]~~ review and approve a charter school plan on behalf of the State Charter School Board;

~~[(3)]~~ provide notice as necessary to the State Charter School Board of changes required of charter schools for compliance with statute and rule;]

~~[(4)]~~(2) review and approve a plan submitted by the USDB Advisory Council as necessary;

~~[(5)]~~(3) prepare the annual distribution of funds to implement the School LAND Trust program pursuant to Section 53F-2-404;

~~[(6)]~~(4) provide training to entities involved with the School LAND Trust program consistent with Subsection 53G-7-1206(8); and

~~[(7)]~~(5) implement corrective action, if appropriate, consistent with Rule R277-114 if an LEA or its council fails to comply with this rule.

**KEY: schools, trust lands funds, school community councils**

**Date of Last Change: ~~January 10,~~ 2024**

**Notice of Continuation: November 5, 2021**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53F-2-404**

**NOTICE OF SUBSTANTIVE CHANGE**

**TYPE OF FILING:** Amendment

**Rule or Section Number:**

**R277-479**

**Filing ID: 56726**

**Agency Information**

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

**General Information**

<b>2. Rule or section catchline:</b>
R277-479. Funding for Charter School Students With Disabilities on an IEP
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being amended to clarify how to calculate the amount of funds a new charter school will receive for special education students.
<b>4. Summary of the new rule or change:</b>
The amendments specifically add an oversight categorization, add a definition for "Expanding charter school", remove the definition for "Significant expansion", and clarify the requirements for Charter School Special Education Add-On Funding.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This rule change is not expected to have fiscal impact on state government revenues or expenditures.
This rule change updates practices for providing state special education funding for students with disabilities to new and expanding charter schools. The changes use available data sooner to provide more accurate funding while providing ample funding for the charter schools to begin operating and providing services to students with disabilities. These changes affect Local Education Agency (LEA) distributions and do not have a measurable cost for the Utah State Board of Education (USBE).
<b>B) Local governments:</b>
This rule change is not expected to have fiscal impact on local governments' revenues or expenditures.
This rule change updates practices for providing state special education funding for students with disabilities to new and expanding charter schools. The changes use available data sooner to provide more accurate funding while providing ample funding for the charter schools to begin operating and providing services to students with disabilities. USBE is unable to quantify exact impacts for LEAs; however, forecasts will be more accurate for new and expanding charter schools and should lessen future impacts on LEAs needing to adjust budgets in subsequent years of operation.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. This only impacts USBE and LEAs.

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

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

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

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

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

There are no compliance costs for affected persons. There are no costs for USBE to implement the changes to new and expanding charter LEA special education funding distributions as the distributions can be updated with existing staff and resources. LEAs also have no compliance costs as this only affects distributions for new and expanding charter schools.

**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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this 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:**

Article X, Section 3	Subsection 53E-3-501(1)(c)(vi)(A)	Section 53E-7-206
Subsection 53E-3-401(4)		



**Public Notice Information**

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

**A) Comments will be accepted until:** 10/01/2024

**9. This rule change MAY become effective on:** 10/08/2024

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

**Agency Authorization Information**

**Agency head or designee and title:** Angie Stallings, Deputy Superintendent of Policy **Date:** 08/15/2024

**R277. Education, Administration.**

**R277-479. Funding for Charter School Students With Disabilities on an IEP.**

**R277-479-1. Authority, ~~and~~ Purpose, and Oversight Category.**

- (1) This rule is authorized by:
  - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
  - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Constitution and state law;
  - (c) Subsection 53E-3-501(1)(c)(vi)(A), which directs the Board to adopt rules regarding services for persons with disabilities; and
  - (d) Section 53E-7-206, which directs the Board to administer state and federal special education funds.
- (2) The purpose of this rule is to specify standards and procedures for funding of charter school students with disabilities on an IEP.
- (3) This Rule R277-479 is categorized as exempt as described in Rule R277-111.

**R277-479-2. Definitions.**

- (1) "Base" means prior year special education add-on WPU.
- (2) "Charter school" means a school authorized by a charter school authorizer under Sections 53G-5-304 through 53G-5-306.
- (3) "Charter school authorizer" or "authorizer" has the same meaning as that term is defined in Subsection 53G-5-102(3).
- (4) "Common Data Committee" or "CDC" means a group comprised of representatives of Board staff, the Legislative Fiscal Analyst's Office, the Governor's Office of Management and Budget, and the Utah State Tax Commission, that reports to the Legislature with:
  - (a) estimates of the growth of students in Utah schools and how much it will cost to fund those students; and
  - (b) estimates of the tax dollars the state will receive for education.
- (5) "Estimated enrollment" means the enrollment projections done by the CDC as approved by the Superintendent and used for legislative projections.
- (6) "Expanding charter school" means a "large expansion" or new "satellite school" as described in Rule R277-550.
- (~~6~~) "Foundation" means the average of self-contained and resource special education students average daily membership over the previous five years.
- (~~7~~) "Negative growth adjustment" means prior year special education add-on WPU minus weighted negative growth.
- (~~8~~) "New charter school" means a charter school with less than five years of operation.
- (~~9~~) "Positive growth adjustment" means prior year special education add-on WPU plus weighted growth.
- (~~10~~) "Prevalence rate" means the percentage of students with disabilities within the total student enrollment.
- (~~11~~) "Significant expansion" means a substantial increase in the number of students attending a charter school due to a significant event, such as the addition of new grade levels or additions of sites, that is unlikely to occur on a regular basis.
- (12) "Special education" means specially designed instruction and related services to meet the unique needs of a student with a disability in accordance with Rule R277-750.
- (13) "Student with a disability" means a student, evaluated in accordance with Utah State Board of Education Special Education Rules, and determined to be eligible for special education and related services.
- (14) "Total enrollment" means the total number of students enrolled in all campuses of a school as of the October 1 UTREx update.
- (15) "Utah eTranscript and Record Exchange" or "UTREx" means a system that allows:
  - (a) individual detailed student records to be exchanged electronically among public education LEAs and the Superintendent; and
  - (b) electronic transcripts to be sent to any post-secondary institution that participates in the e-transcript service.

**R277-479-3. Charter School Special Education Add-On Funding.**

- (~~1~~) For existing charter schools, the Superintendent shall calculate the foundation based on the average ADM of students with disabilities for the current year and the previous four years.
- (~~2~~) (a) For new and expanding charter schools, the Superintendent shall calculate the foundation based on the average special education ADM for the number of years the ~~new charter~~ school has been in operation beyond the first year, until the charter school completes its fourth year of operation.
- (~~b~~) In its first operational year, a new charter school shall receive special education funding based on estimated enrollment projections made by the CDC and approved by the Superintendent for legislative projections.

NOTICES OF PROPOSED RULES

- ~~(c)(i) For a new charter school, the estimate of students with disabilities shall be 10% of the estimated enrollment.~~
- ~~(ii) The Superintendent shall adjust the special education add-on WPUs for the number of students with disabilities as reported on the October 1 count for the current school year.]~~
- (b)(i) A new or expanding charter school in its first operational year shall receive special education add-on funding based on estimated enrollment projections made by the CDC and approved by the Superintendent for legislative projections.
- (ii) The Superintendent shall initially calculate the add-on by multiplying estimated enrollment by 10% to determine the number of WPUs allocated in the legislative estimate.
- (iii) The Superintendent shall finally calculate the add-on by taking the actual number of special education students reported on the December 1 count.
- (c)(i) For the second operational year, a new or expanding charter school shall receive estimated special education add-on funding based on the December 1 count from the prior year.
- (ii) The final WPUs allocated from the special education add-on program in the second operational year shall equal the ADM count from the prior year.
- (d)(i)(A) In its first operational year, a new or expanding charter school shall receive estimated WPUs for the special education self-contained program equal to the average self-contained prevalence rate of all charter schools in the prior year multiplied by the CDC estimated enrollment for the school.
- (B) The final WPUs allocated shall be equal to the number of self-contained students reported on the December 1 count of the current school year for the new or expanding charter school.
- (ii) In its second operational year, a new or expanding charter school shall receive estimated special education self-contained funding based on the December 1 count of self-contained students from the prior year.
- (iii) The final WPUs allocated from the special education self-contained program in the second operational year shall equal the ADM count of self-contained students from the current school year.
- (e)(i)(A) For special education impact aid funding in the first operational year, a new or expanding charter school shall receive an estimated December 1 count equal to 10% multiplied by the CDC estimated enrollment of the new or expanding charter school.
- (B) The Superintendent shall use the amount from Subsection (A) in the formula prescribed in the USBE Special Education Rules X.J., incorporated by reference in Rule R277-750.
- (C) The Superintendent shall base the final WPUs allocated to a new or expanding charter school on the school's December 1 counts for the current school year.
- (ii)(A) In the second operational year, a new or expanding charter school shall received estimated special education impact aid funding based on the December 1 count of self-contained students from the prior year.
- (B) A new or expanding charter school shall receive final WPUs allocated based on December 1 counts for the current school year.
- (f)(i)(A) For the special education ESY program, in the first operational year, a new or expanding charter school shall receive funding based on a program count equal to .014 multiplied by the CDC estimate.
- (B) The Superintendent shall use the amount in Subsection (A) in the formula prescribed in the USBE Special Education Rules, X.L., incorporated by reference in Rule R277-750.
- (ii) In the second operational year, a new or expanding charter school shall receive estimated special education ESY funding based on the ADM count of ESY eligible students from the prior year.
- ~~([3]2) The foundation is the minimum amount a charter school may receive for special education add-on funding.~~
- ~~([4]3)(a) The Superintendent shall apply a positive growth adjustment to a charter school's foundation for weighted growth.~~
- ~~(b) The Superintendent shall determine weighted growth as set forth in Subsection 53F-2-307(7)(e)(i).~~
- ~~(c) The Superintendent shall determine growth WPUs as set forth in Subsection 53F-2-307(7)(e).~~
- ~~(d) The Superintendent may not impose a funding cap based on the charter prevalence rate because a charter school is designed and authorized specifically to serve students with disabilities.~~
- ~~(e) When there is no growth, either because a charter school is new or because the same number of students are enrolled, the Superintendent may not apply a positive growth adjustment.~~
- ~~([5]4)(a) The Superintendent shall apply a negative growth adjustment to a charter school's base for decline in special education ADM.~~
- ~~(b) The negative growth adjustment is the base multiplied by the percentage of enrollment decline.~~
- ~~(c) The Superintendent shall subtract the result calculated under Subsection (5)(b) from the base to determine WPU.~~
- ~~(d) When there is no decline in a charter school's enrollment of students with disabilities, either because the charter school is new or because the same number of students are enrolled, the Superintendent may not apply a negative growth adjustment to the charter school's allotment.~~
- ~~(e) If a negative growth adjustment brings the WPU below the foundation, the charter school shall receive the foundation WPU.~~
- ~~(6)(a) If an authorizer approves a significant expansion for a charter school, during the first and second years of expansion, the Superintendent shall multiply the projected increase in enrollment by 10% to arrive at the WPU supplement for the charter school.~~
- ~~(b) The Superintendent shall adjust the special education add-on WPUs for the number of students with disabilities as reported on the October 1 count for the current school year.]~~
- ~~([e]5) After the first and second years of a charter school's expansion, the special education formula provided in this Section R277-479-3 shall account for the expansion.~~
- ~~([7]6) Notwithstanding this Section R277-479-3, if a new or expanding charter school [or significant expansion] identifies a purpose and target population in its application focusing on students with disabilities, the Superintendent shall estimate the number of students with disabilities expected to enroll in consultation with the authorizer and the school.~~

KEY: charter schools, students with disabilities

Date of Last Change: 2024|July 11, 2023|

Notice of Continuation: March 12, 2022

Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53E-3-501(1)(c)(vi)(A); 53E-7-206; 53E-3-401(4)

### NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: New

Rule or Section Number:

R277-482

Filing ID: 56727

#### Agency Information

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

#### General Information

2. Rule or section catchline:
R277-482. LEA Work Email Communication Requirements
3. Purpose of the new rule or reason for the change:
This rule is being created due to the passage of H.B. 82 in the 2024 General Session which requires that Local Education Agencies (LEAs) submit school Personnel work email addresses to the Utah State Board of Education (USBE).
4. Summary of the new rule or change:
This new rule establishes reporting deadlines and clarifies which employees' email addresses are required to be reported to USBE as required in Section 53G-7-224.

#### Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This new rule is not expected to have fiscal impact on state government revenues or expenditures. H.B. 82 (2024) requirement for Local Education Agencies (LEAs) to submit school personnel email addresses to the Utah State Board of Education (USBE). USBE believes the fiscal note to H.B. 82 (2024) captured the associated fiscal impacts and the rule does not add any additional costs for USBE or LEAs.
B) Local governments:
This new rule is not expected to have fiscal impact on local governments' revenues or expenditures. H.B. 82 (2024) created the requirement for LEAs to submit school personnel email addresses to USBE. USBE believes the fiscal note to H.B. 82 (2024) captured the associated fiscal impacts and the rule does not add any additional costs for USBE or LEAs.
C) Small businesses ("small business" means a business employing 1-49 persons):
This new rule is not expected to have fiscal impact on small businesses' revenues or expenditures. This only affects USBE and LEAs.

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

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

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

This new rule is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. This only affects USBE and LEAs.

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

There are no compliance costs for affected persons. H.B. 82 (2024) created the requirement for LEAs to submit school personnel email addresses to USBE. USBE believes the fiscal note to H.B. 82 (2024) captured the associated fiscal impacts and the rule does not add any additional costs for USBE or LEAs.

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

Regulatory Impact Table			
Fiscal Cost	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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

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

**Citation Information**

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

Subsection 53E-3-401(4)	Section 53G-7-224	
-------------------------	-------------------	--

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	10/01/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	10/08/2024
---	------------

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	08/15/2024
---	--	--------------	------------

**R277. Education, Administration.**

**R277-482. LEA Work Email Communication Requirements.**

**R277-482-1. Authority, Purpose, and Oversight Category.**

- (1) This rule is authorized by:
  - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and
  - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.
- (2) The purpose of this rule is to provide administrative procedures regarding a requirement in Section 53G-7-224 for an LEA to annually provide the Board with the work email address of each of LEA's school employee.
- (3) This Rule R277-482 is categorized as Category 2 as described in Rule R277-111.

**R277-482-2. Definitions.**

- For purposes of Section 53G-7-224, Section 53G-8-510, and this Rule R277-482:
- (1)(a) "Official communication" means communication from the Board.
  - (b) "Official communication" does not include communication from the Superintendent.
  - (2) "School campus" includes:
    - (a) a school building;
    - (b) an administrative building;
    - (c) an LEA-owned or operated facility; or
    - (d) a virtual instructional space.
  - (3) "School employee" means the same as that term is defined in Section 53G-7-224.
  - (4) "Work email address" means an email address generated by an LEA for an individual who is employed, directly or indirectly, by a school, an LEA governing board, or a school district.

**R277-482-3. Procedures to Provide Work Email Address Information to the Board.**

- (1) The Superintendent shall send a data collection request to LEAs by September 1 annually for LEAs to submit work email address information.
- (2) As required in Section 53G-7-224, an LEA shall provide the Superintendent with the work email address of each school employee on or before October 1.

**KEY: school employee; work email address; official communication**

**Date of Last Change: 2024**

**Authorizing, and Implemented or Interpreted Law: 53E-3-401(4), 53G-7-224**

NOTICE OF SUBSTANTIVE CHANGE		
<b>TYPE OF FILING:</b> Amendment		
<b>Rule or Section Number:</b>	<b>R277-495</b>	<b>Filing ID: 56728</b>

**Agency Information**

<b>1. Title catchline:</b>	Education, Administration
<b>Building:</b>	Board of Education
<b>Street address:</b>	250 E 500 S
<b>City, state:</b>	Salt Lake City, UT 84111
<b>Mailing address:</b>	PO Box 144200
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4200
<b>Contact persons:</b>	

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

**General Information**

<b>2. Rule or section catchline:</b>
R277-495. Electronic Devices in Public Schools
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being amended due to the passage of S.B. 92 during the 2024 General Session.
<b>4. Summary of the new rule or change:</b>
The amendments specifically update the rule to include S.B. 92 (2024) requirements for Local Education Agencies (LEAs) and schools to provide non-electronic means of communicating with students for school activities and course work.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This rule change is not expected to have fiscal impact on state government' revenues or expenditures. The fiscal note for S.B. 92 (2024) captured the fiscal impacts of the changes and the rule does not add any additional costs for the Utah State Board of Education (USBE) or Local Education Agencies (LEAs).
<b>B) Local governments:</b>
This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. The fiscal note for S.B. 92 (2024) captured the fiscal impacts of the changes and the rule does not add any additional costs for USBE or LEAs.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. This only impacts USBE and LEAs.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):
This rule change is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. This only impacts USBE and LEAs.
<b>F) Compliance costs for affected persons</b> (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs for affected persons. The fiscal note for S.B. 92 (2024) captured the fiscal impacts of the changes and the rule does not add any additional costs for USBE or LEAs.
<b>G) Regulatory Impact Summary Table</b> (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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this regulatory impact analysis.			

**Citation Information**

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Article X, Section 3	Subsection 53E-3-401(4)	Subsection 53G-8-202(2)(c)(i)

**Public Notice Information**

<b>8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)</b>	
<b>A) Comments will be accepted until:</b>	10/01/2024

<b>9. This rule change MAY become effective on:</b>	10/08/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	08/15/2024
---	--	--------------	------------

**R277. Education, Administration.**

**R277-495. Electronic Devices in Public Schools.**

**R277-495-1. Authority, ~~and~~ Purpose, and Oversight Category.**

- (1) This rule is authorized by:
  - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
  - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;
  - (c) Subsection 53G-8-202(2)(c)(i), which directs the Superintendent to develop a conduct and discipline policy model for elementary and secondary public schools; and
  - (d) 47 CFR, Part 54, Children's Internet Protection Act, which requires schools and libraries that have computers with internet access to certify they have internet safety policies and technology protection measures in place to receive discounted internet access and services.
- (2) The purpose of this rule is to direct all LEAs and public schools to adopt policies, individually or collectively as school districts or consortia of charter schools, governing the possession and use of electronic devices including:
  - (a) both LEA-owned and privately-owned, while on public school premises or during participation in school activities; and

NOTICES OF PROPOSED RULES

(b) for LEA-owned devices, wherever the LEA-owned devices are used.

(3) This Rule R277-495 is categorized as Category 2 as described in Rule R277-111.

**R277-495-2. Definitions.**

(1) "Acceptable use policy" means a document stipulating constraints and practices that a user shall accept before a user accessing an LEA's, or any school within an LEA's, network or the internet.

(2) "Electronic device" means a device that is used for audio, video, or text communication or any other type of computer or computer-like instrument including:

- (a) a smart phone;
- (b) a smart or electronic watch;
- (c) a tablet; or
- (d) a virtual reality device.

(3) "Guest" means an individual:

- (a) who is not a student, employee, or designated volunteer of a public school; and
- (b) who is on school property or at the site of a school-sponsored activity or event.

(4) "Inappropriate matter" means pornographic or indecent material as defined in Subsection 76-10-1235(1)(a) and Section 53G-10-103.

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

(6) "LEA-owned electronic device" means a device that is used for audio, video, text communication, or other type of computer or computer-like instrument that is identified as being owned, provided, issued or lent by the LEA to a student or employee.

(7) "Policy" means an electronic device use policy as required by this rule that contains:

- (a) permissible uses of an electronic device under certain circumstances; or
- (b) restricted uses of an electronic devices under certain circumstances.

(8) "Privately-owned electronic device" means a device, including an electronic device that is used for audio, video, text communication, or other type of computer or computer-like instrument that is not owned or issued by the LEA to a student, or employee.

(9) "Public school" means a school or public school program, grades kindergarten through 12, that is part of the Utah public school system, including a school with a distance learning program or alternative program.

(10) "Student," for purposes of this rule, means an individual enrolled as a student at an LEA regardless of the part-time nature of the enrollment or the age of the individual.

(11)(a) "The Children's Internet Protection Act (CIPA)" means federal regulations enacted by the Federal Communications Commission (FCC) and administrated by the Schools and Libraries Division of the FCC.

(b) CIPA and companion laws, the Neighborhood Children's Internet Protection Act (NCIPA) and the Protecting Children in the 21st Century Act, require recipients of federal technology funds to comply with certain internet filtering and policy requirements.

(12) "Utah Education Telehealth Network or UETN" means the Utah Education and Telehealth Network created in Section 53B-17-105.

**R277-495-3. Requirement of Electronic Device Use Policy, Creation, and Access.**

(1) An LEA shall require all schools under the LEA's supervision to have a policy or policies for students, employees and, where appropriate, for guests, governing the use of electronic devices on school premises and at school-sponsored activities.

(2) An LEA shall review and approve policies regularly.

(3) An LEA shall encourage schools to involve teachers, parents, students, school employees, school community councils, and community members in developing the local policies.

(4) An LEA shall provide copies of the LEA's policies or clear electronic links to policies at LEA offices, in schools and on the LEA's website in the same location as the LEA's data governance plan required in Rule R277-487.

(5) An LEA and all schools within the LEA shall cooperate to ensure that all policies within a school or school district are consistent and accessible to parents and community members.

(6) An LEA shall provide reasonable public notice and at least one public hearing or meeting to address a proposed or revised acceptable use policy.

(7) An LEA shall retain documentation of the policy review and adoption actions.

**R277-495-4. LEA Electronic Device Policy Requirements.**

(1) An LEA's policy shall include at least the following:

- (a) definitions of electronic devices covered by policy;
- (b) prohibitions on the use of electronic devices in ways that:
  - (i) significantly impair academic excellence;
  - (ii) bully, humiliate, harass, or intimidate school-related individuals, including students, employees, and guests, consistent with Rules R277-609 and R277-613; or
  - (iii) violate local, state, or federal laws;
- (c) the prohibition of access by students, LEA employees and guests to inappropriate matter on the internet [~~and world-wide web~~]

R277-609 and R277-613; or

while using LEA equipment, services, or connectivity whether on or off school property;

~~(e)~~ directives on the safety and security of students when using social media and other forms of electronic communications;

~~(f)~~ directives on unauthorized access, including hacking and other unlawful activities by a user of an LEA electronic device;~~and~~



~~(g)~~ directives on unauthorized disclosure, use and dissemination of personal student information under Rule R277-487 and the Family Educational Rights and Privacy Act (FERPA) 34 CFR, Part 99[-]; and

(g) alignment with Subsection 53G-4-402(22).

(2) In addition to the requirements of Subsection (1), an LEA's policies for student use of electronic devices shall include directives regarding the following:

- (a) the use of privately-owned electronic devices during standardized assessments;
- (b) administrative penalties for misuse of electronic devices during school hours or at a school-sponsored activity, program, or event;
- (c) violations of an LEA's acceptable use policies that may result in confiscation of LEA-owned electronic devices or restricted access on the LEA's;
- (d) a student's personal responsibility for devices assigned or provided to a student by the LEA, both for loss or damage of electronic devices and use of electronic devices consistent with the LEA's directives;
- (e) use of electronic devices in violation of an LEA's or teacher's instructional policies may result in the confiscation of privately-owned electronic devices for a designated period and may result in the school contacting a parent to address the alleged violation; ~~and~~
- (f) uses of privately-owned electronic devices to bully or harass other students or employees during school hours or at school-sponsored activities that may result in the student being subject to LEA disciplinary action[-]; and
- (g) prohibition on requiring the use of a privately-owned electronic device to complete course work.

(3) In addition to Subsections (1) and (2), directives for employee use of electronic devices shall include:

- (a) notice that use of electronic devices to access inappropriate matter on LEA-owned electronic devices or privately-owned electronic devices on school property, at school-sponsored events or using school connectivity may have criminal, employment or student disciplinary consequences, and if appropriate, may be reported to law enforcement;
- (b) notice that an employee is responsible for LEA-issued electronic devices at all times and misuse of an electronic device may have employment consequences, regardless of the user; and
- (c) required staff responsibilities in educating minors on appropriate online activities, as required by Section 53G-7-1202, and in supervising such activities.

~~(4)~~(5) An LEA's policies shall also include the following:

- (a) prohibitions or restrictions on unauthorized use that would cause invasions of reasonable expectations of student and employee privacy;
  - (b) procedures to report the misuse of electronic devices; and
  - (c) potential disciplinary actions toward students or employees for violation of local policies regarding the use of electronic devices;
- and
- (d) exceptions to the policy for special circumstances, health-related reasons and emergencies, if any.

~~(5)~~(6) An LEA shall certify annually through UETN, and as required by the FCC, that the LEA has a CIPA-compliant acceptable use policy.

#### **R277-495-5. Required School Level Training.**

(1) A school shall provide, within the first 45 days of each school year, a school-wide or in-classroom training to employees and students that covers:

- (a) the contents of the school's policy;
- (b) the importance of digital citizenship;
- (c) the LEA's conduct and discipline related consequences as related to a violation of the school's policy;
- (d) the LEA's general conduct and discipline policies as described in Section 53G-8-202; and
- (e) the benefits of connecting to the internet and utilizing the school's internet filters, while on school premises.

(2) A school that adopts a permissible use policy shall:

- (a) within the first 45 days of each school[-]year, provide school-wide or in-classroom training to employees and students that covers:
  - (i) the elements described in Subsections (1)(a) through (e); and
  - (ii) specific rules governing the permissible and restricted uses of personal electronic devices while in a classroom; and
- (b) require that each educator who allows the use of a personal electronic device in the classroom clearly communicates to parents and students the conditions under which the use of a personal electronic device is allowed.

#### **R277-495-6. Resources and Required Assurances.**

(1) The Superintendent may provide resources, upon request, for an LEA regarding electronic device policies, including:

- (a) sample acceptable use policies;
- (b) general best practices for electronic device use as outlined in Rule R277-922; and
- (c) materials for digital citizenship as outlined in Section 53G-7-1202.

(2) An LEA shall post the LEA's electronic device use policy on the LEA's website and provide a link to the Board through the annual assurances document described in Rule R277-108.

#### **R277-495-7. LEA Requirement to Notify Parents of Filtering Options.**

An LEA shall provide an annual notice to all parents of the location of information for in-home network filtering options as provided for in Section 76-10-1231.

**KEY:** electronic devices, policy

**Date of Last Change:** ~~2024~~~~December 11, 2023~~

**Notice of Continuation:** October 16, 2023

**Authorizing, and Implemented or Interpreted Law:** Art X Sec 3; 53E-3-401(4); 53G-8-202(2)(c)(i)

**NOTICE OF SUBSTANTIVE CHANGE**

**TYPE OF FILING:** Amendment

**Rule or Section Number:**

**R277-600**

**Filing ID: 56729**

**Agency Information**

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

**General Information**

<b>2. Rule or section catchline:</b>
R277-600. Student Transportation Standards and Procedures
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being amended due to the passage of H.B. 534 during the 2024 General Session.
<b>4. Summary of the new rule or change:</b>
The amendments specifically assign an oversight category, eliminate references to the Transportation Advisory Committee and eliminate the section on the Rural School District Transportation Grant Program, due to shifts in funding.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This rule change is not expected to have fiscal impact on state government revenues or expenditures. The oversight framework categorization is part of the Utah State Board of Education's (USBE) effort through Rule R277-111 to categorize each rule into an oversight framework category, or to delineate for stakeholders what type of monitoring or oversight is required by USBE resulting from the rule.
This categorization does not add any requirements or resources in and of itself. The other rule changes reflect passage of H.B. 534 (2024) and USBE believes all associated fiscal impacts were captured in the fiscal note to H.B. 534 (2024).
<b>B) Local governments:</b>
This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. The oversight framework categorization is part of the Utah State Board of Education's (USBE) effort through Rule R277-111 to categorize each rule into an oversight framework category, or to delineate for stakeholders what type of monitoring or oversight is required by USBE resulting from the rule. This categorization does not add any requirements or resources in and of itself.

The other rule changes reflect passage of H.B. 534 (2024) and USBE believes all associated fiscal impacts were captured in the fiscal note to H.B. 534 (2024).

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

This rule change is not expected to have fiscal impact on small business revenues or expenditures. This only impacts USBE and Local Education Agencies (LEAs).

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

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

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

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

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

There are no compliance costs for affected persons. The oversight framework categorization is part of the Utah State Board of Education's (USBE) effort through Rule R277-111 to categorize each rule into an oversight framework category, or to delineate for stakeholders what type of monitoring or oversight is required by USBE resulting from the rule.

This categorization does not add any requirements or resources in and of itself. The other rule changes reflect passage of H.B. 534 (2024) and USBE believes all associated fiscal impacts were captured in the fiscal note to H.B. 534 (2024).

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this 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:**

Article X, Section 3	Subsection 53E-3-501(1)(d)	Subsection 53E-3-401(4)
Section 53F-2-415	Section 53F-2-403	

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	10/01/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	10/08/2024
---	------------

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	08/15/2024
---	--	--------------	------------

**R277. Education, Administration.**

**R277-600. Student Transportation Standards and Procedures.**

**R277-600-1. Authority, ~~and~~ Purpose, and Oversight Category.**

- (1) This rule is authorized by:
  - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public schools in the Board;
  - (b) Subsection 53E-3-501(1)(d), which directs the Board to establish rules for bus routes, bus safety and other transportation needs;
  - (c) Sections 53F-2-402 and 53F-2-403, which provide for distribution of funds for transportation of public school students;
  - (d) Section 53F-2-417, which directs the Board to make rules to implement rural school district transportation grants; and
  - (e) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to specify the standards under which school districts may qualify for and receive state transportation funds.

(3) This Rule R277-600 is categorized as Category 4 as described in Rule R277-111.

**R277-600-2. Definitions.**

- (1) "ADA" means average daily attendance.
- (2) "ADM" means average daily membership.
- (3) "AFR" means a school district's annual financial report, one component of which is the AFR for all pupil transportation costs.
- (4) "Annual Program Report" or "APR" has the same meaning as defined in Section R277-484-2.
- (5)(a) "Approved costs" means the Board approved costs of transporting eligible students from home to school to home once each day, after-school routes, approved routes for students with disabilities and vocational students attending school outside their regularly assigned attendance boundary, and a portion of the bus purchase prices.
  - (b) All approved costs are adjusted by the Superintendent consistent with a Board approved formula per the annual legislative transportation appropriation.
- (6) "Deadhead miles" means miles traveled while operating a bus with no passengers on board.
- (7) "Extended school year" or "ESY" means an extension of the school district or charter school traditional school year to provide special education and related services to a student with a disability, in accordance with the student's IEP, and at no cost to the student's parent or guardian.
- (8) "Hazardous" means in a state of danger or potential danger, which may result in injury or death.
- (9) "Local school board" means a local school district board of education.
- (10) "Multipurpose passenger vehicle" or "MPV" means any motor vehicle with less than ten passenger positions, including the driver's position, which cannot be certified as a bus.
- (11) "Public route" means a road, thoroughfare, walkway, or highway.
- ~~(12) "Pupil Transportation Advisory Committee" means the committee described in Subsection 53F-2-403(5).]~~
- ~~(13)~~ (12) "Pupil Transportation Schedule A1" means a report submitted annually to the Superintendent covering all estimated miles and minutes of to and from pupil transportation within an LEA.

**R277-600-3. General Provisions.**

(1)(a) The Superintendent shall use state transportation funds to reimburse school districts for the costs reasonably related to transporting students to and from school.

(b) The Board shall define the limits of a school district's transportation costs reimbursable by state funds in a manner that encourages safety, economy, and efficiency.

(2) Allowable transportation costs are divided into two categories:

(a) A Category costs include expenditures for regular and special education bus routes established by the school district, and approved by the state.

(b) B Category costs include other methods of transporting students to and from school.

(3) The Superintendent shall develop a formula to allocate A Category costs based on a calculated rate.

(4) The Superintendent shall approve reasonable and necessary B Category costs on a line-by-line basis.

(5) The Superintendent shall develop a uniform accounting procedure for the financial reporting of transportation costs, which shall specify the methods used to calculate allowable transportation costs.

(6) The Superintendent shall develop uniform forms for the administration of the transportation program.

(7)(a) An LEA shall record all student transportation costs, including accurate mileage, minute, and trip records.

(b) An LEA shall maintain records and financial worksheets during the fiscal year for audit purposes.

#### **R277-600-4. Eligibility.**

(1) The Superintendent shall only disburse state transportation funds for transporting eligible students.

(2) The Superintendent shall determine transportation eligibility for elementary students (k-6) and secondary students (7-12) in accordance with the mileage from home, specified in Subsections 53F-2-403(1) and (2), to the school attended by assignment of the local school board.

(3) A student whose IEP identifies transportation as a necessary related service is eligible for transportation regardless of distance from the school attended by assignment of the local school board.

(4) A student who attends school for at least one-half day at a location other than the local school board designated school is not eligible for transportation for distances up to one and one-half miles.

(5) A school district that implements double sessions as an alternative to new building construction may transport, one way to or from school, with Board approval, affected elementary students residing less than one and one-half miles from school, if the local school board determines the transportation would improve safety affected by darkness or other hazardous conditions.

(6) The distance from a student's home to the student's school or the student's bus stop is determined as follows: From the center of the public route open to public use, opposite the regular entrance where the student is living, over the nearest public route open regularly for use by the public, to the center of the public route open to public use, opposite the nearest public entrance to the school grounds which the student is attending, or the student's bus stop.

#### **R277-600-5. Student with Disabilities Transportation.**

(1) A student with a disability shall be transported on regular buses and regular routes when possible, unless the IEP team determines otherwise.

(2) A school district may be reimbursed for the costs of transporting or for alternative transportation for students with disabilities whose severity of disability, or combination of disabilities, necessitates special transportation.

(3) During the regular school year, an eligible special transportation route from the assigned school site to an alternative program location shall be for a minimum of 15 days with primarily the same group of students.

(4) During the ESY, an eligible special transportation route from the assigned school site to an alternative program location shall be for a minimum of ten days with primarily the same group of students.

(5) ESY services shall meet the standards of Part B of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1401(3) and Board Special Education Rules.

(6) The Utah Schools for the Deaf and the Blind shall provide transportation for students who are transported to its self-contained classes, unless an exception is approved by the Superintendent.

#### **R277-600-6. Bus Route Approval.**

(1)(a) A local school board shall propose bus routes subject to approval by the Superintendent.

(b) A local school board shall provide information requested by the Superintendent prior to approval of a route.

(c) During the regular school year, an eligible route from the assigned school site to an alternative program location shall be for a minimum of 15 days with primarily the same group of students.

(d) The Superintendent may not approve a route for reimbursement if an equitable student transportation allowance or a subsistence allowance for the necessary transportation is more cost-effective.

(2) A bus route shall:

(a) traverse the most direct public road;

(b) be reasonably cost-effective in comparison to other feasible alternatives;

(c) provide adequate safety for students;

(d) traverse roads that are constructed and maintained in a manner that does not cause property damage; and

(e) include an economically appropriate number of students.

(3)(a) The minimum number of general education students required to establish full eligibility for state-supported transportation is ten.

(b) The minimum number of students with disabilities required to establish full eligibility for state-supported transportation is five.

(c) A bus route may be established for fewer students upon special permission of the Superintendent.

NOTICES OF PROPOSED RULES

- (4) A school district shall designate safe areas for bus stops, subject to the following, where possible:
  - (a) a school district shall place bus stops at least 3/10 miles apart; and
  - (b) a school district shall avoid placing bus stops on dead end roads.
- (5)(a) A student's parent or guardian is responsible for the student's own transportation to bus stops up to one and one-half miles from home.
  - (b) A parent or guardian with a student that has a disability is responsible for the student's own transportation to bus stops unless the IEP team determines otherwise.
- (6)(a) A school district shall report changes made in existing routes or the addition of new routes to the Superintendent as they occur.
  - (b) The Superintendent shall review and may refuse to fund route changes.
- (7) The Superintendent may reimburse a school district for transporting another district's students across school district boundaries so long as:
  - (a) the route promotes efficient transportation for both districts;
  - (b) the route serves a group or community of students and families rather than a single student or a single family;
  - (c) the local school boards of both participating districts vote in an open meeting that students who reside in one district can be better and more economically served by another district; and
  - (d) both districts and the Superintendent maintain documentation annually of the boards' votes and the approved route.
- (8) A school district may transport eligible students home after school activities held at the students' school of regular attendance and within a reasonable time period after the close of the regular school day and receive approved route mileage.
- (9)(a) The Superintendent may approve atypical routes as alternatives to building construction if routes are needed to allow more efficient school district use of school facilities.
  - (b) Building construction alternatives include:
    - (i) double sessions;
    - (ii) year-round school; and
    - (iii) attendance across school district boundaries.
- (10)(a) A school district may use local transportation funds to transport students across state lines or out-of-state for school sponsored activities or required field trips if:
  - (i) the local school board has a policy that includes approval of trips at the appropriate administrative level;
  - (ii) the school or school district has considered the purpose of the trip or activity and any competing risk or liability;
  - (iii) given the distance, purpose, and length of the trip, the school district has determined that the use of a publicly owned school bus is appropriate for the trip or activity; and
  - (iv) the local school board has consulted with State Risk Management.
- (b) If school bus routes transport students across Utah state lines or outside of Utah for required to and from routes, routes are reimbursable providing a school district maintains documentation that:
  - (i) the routes are necessary;
  - (ii) the routes are more cost-effective; or
  - (iii) the routes provide greater safety for students than in-state routes.

**R277-600-7. Alternative Transportation.**

- (1) A district shall analyze bus routes that involve a large number of deadhead miles to determine if an alternative method of transporting students is more efficient.
- (2) Approved alternatives include the alternatives described in Subsections (3) through (9).
- (3)(a) The costs incurred in transporting eligible pupils in a school district MPV are approved costs as long as the costs demonstrate efficiency; or
  - (b) The costs incurred in paying a parent or guardian of an eligible student an allowance in lieu of school district-supplied transportation are approved costs.
- (4)(a) A parent or guardian of a student may be reimbursed for the mileage to the bus stop or school, whichever is closer to the student's home.
  - (b) The allowance under this Subsection (4)(a) may not be less than \$0.35 per mile, nor greater than the reimbursement allowance permitted by the Utah Department of Government Operations for use of privately owned vehicles set forth in the Utah Travel Regulations.
- (5) A district shall annually perform a cost-benefit analysis as part of its determination of the LEA specific reimbursement rate and make this analysis available to the public.
- (6)(a) A district shall make a student mileage allowance under this Section R277-600-7 to only one student per family for each trip that is necessary for all the students within a family to attend school.
  - (b) If siblings are on different school schedule or ride buses that are on significantly different schedules, a parent or guardian may claim and be paid for student mileage allowances for multiple students.
- (7) If a student eligible for reimbursement under this Section R277-600-7 or the student's parent or guardian cannot provide private transportation, with prior approval from the Superintendent:
  - (a) the Superintendent may reimburse an amount equivalent to the student allowance to the school district to help pay the costs of school district transportation; or
  - (b) the Superintendent may reimburse a school district costs paid for school contracted transportation, commercial bus passes, or alternative specialized transportation services.
- (8)(a) A district shall measure and certify a student's mileage in school district records.

- (b) A student's ADA, as entered in school records, is used to determine the student's attendance.
- (9)(a) The cost incurred in providing a subsistence allowance is an approved cost under the following conditions:
  - (i) a student lives more than 60 miles (one way) on well-maintained roads from the student's assigned school, a parent or guardian may be reimbursed for the student's room and board if the student relocates temporarily to reside in close proximity to the student's assigned school;
  - (ii) payment may not exceed the Substitute Care Rate for Family Services for the current fiscal year;
  - (iii) adjustments for changes made in the rate during the year shall be included in the allowance; and
  - (iv) in addition to the reimbursement for room and board, the subsistence allowance may include the costs of up to 18 round trips per year.
- (b)(i) A subsistence allowance is not available to a parent or guardian who maintains a separate home during the school year for the convenience of the family.
  - (ii) A parent or guardian's primary residence during the school year is the residence of the child.
- (10) A school district may contract or lease with a third party provider for pupil transportation services.
- (11)(a) The cost incurred in engaging in a contract or leasing for transportation is an approved cost at the prorated amount available to school districts.
  - (b) The Superintendent shall determine reimbursements for school districts using a leasing arrangement in accordance with the comparable cost for the school district to operate its own transportation.
  - (c) Under a contract or lease, a school district's transportation administrator's time may not exceed 1% of the commercial contract cost.
    - (12) If a school district contracts or leases with a third party provider or other LEA for pupil transportation services, it shall maintain and provide to the Superintendent upon request the following items as if it operated its own transportation:
      - (a) eligible student counts;
      - (b) bus route mileage;
      - (c) bus route minutes; and
      - (d) service to students with disabilities and bus inventory data.

**R277-600-8. Other Reimbursable Expenses.**

The Superintendent may reimburse a school district for the following costs with state transportation funds:

- (1) salaries of clerks, secretaries, trainers, drivers, a supervisor, mechanics, and other personnel necessary to operate the transportation program, subject to the following limitations:
  - (a) a full time supervisor may be paid at the same rate as other professional directors in the school district; and
  - (b) a school district shall ensure that a supervisor's salary is commensurate with the number of buses, number of eligible students transported, and total responsibility relative to other school district supervisory functions;
- (2) a school district may claim a percentage of the school district superintendent's or other supervisor's salary for reimbursement if the school district's eligibility count is less than 600 and a verifiable record of administrative time spent in the transportation operation is maintained; and
  - (3) the wage time for bus drivers may include to and from school time consisting of:
    - (i) 10 minute pre-trip inspection;
    - (ii) actual driving time;
    - (iii) 10 minute post-trip inspection and bus cleanup; and
    - (iv) 10 minute bus servicing and fueling;
  - (4) a proportionate amount of a superintendent's or supervisor's employee benefits such as health, accident, or life insurance;
  - (5) purchased property services;
  - (6) property, comprehensive, and liability insurance;
  - (7) communication expenses;
  - (8) travel for supervisors to workshops or national conventions;
  - (9) supplies and materials for vehicles, the school district transportation office and the garage;
  - (10) training expenses to complete bus driver instruction and certification required by the Board; and
  - (11) other related costs approved by the Superintendent, which may include additional bus driver training.

**R277-600-9. Non-reimbursable Expenses.**

- (1) AFR for all pupil transportation costs may only include pupil transportation costs and other school district expenditures directly related to pupil transportation.
- (2) In determining expenditures for eligible to and from school transportation, all related costs shall be reduced on a pro rata basis for the miles not connected with approved costs.
- (3) Expenses determined by the Superintendent as not directly related to transportation of eligible students to and from school may not be reimbursed.
  - (4)(a) A local school board may determine appropriate non-school uses of school buses.
    - (b) A local school board may lease or rent public school buses to:
      - (i) federal, state, county, or municipal entities;
      - (ii) entities insured by State Risk Management;
      - (iii) non-government entities; or

NOTICES OF PROPOSED RULES

- (iv) entities not insured through State Risk Management.
- (c) As part of any agreement to allow non-school use of a school bus, a local school board shall:
  - (i) require full cost reimbursement for any non-public school use including:
    - (A) cost per mile;
    - (B) cost per minute; and
    - (C) bus depreciation;
  - (ii) require a non-school user to provide:
    - (A) proof of insurance through State Risk Management or private insurance coverage; and
    - (B) a fully executed agreement for full release of indemnification;
  - (iii) require that any non-school use is revenue neutral; and
  - (iv) consult with State Risk Management to determine adequacy of documentation of insurance and indemnity for any entity requesting use or rental of publicly owned school buses.
- (5) A local school board shall approve the use of school buses by a non-governmental entity or an entity not insured through State Risk Management in an open meeting.
- (6)(a) In the event of an emergency, local, regional, state or federal authorities may request the use of school buses or school bus drivers or both for the period of the emergency.
- (b) A local school board shall grant a request under Subsection (a) so long as the use can be accommodated consistent with continuing student transportation and student safety requirements.

**R277-600-10. Board Local Levy.**

- (1) Costs for school district transportation of students which are not reimbursable may be paid for from general school district funds or from the proceeds of the Board Local Levy authorized under Section 53F-8-302.
- (2) The revenue from the Board Local Levy may be used for transporting students and for school bus replacement.
- (3)(a) A local school board may approve the transportation of students in areas where walking constitutes a hazardous condition from general local school board funds or from the Board Local Levy.
- (b) A local school board shall determine hazardous walking conditions by an analysis of the following factors:
  - (i) volume, type, and speed of vehicular traffic;
  - (ii) age and condition of students traversing the area;
  - (iii) condition of the roadway, sidewalks and applicable means of access in the area; and
  - (iv) environmental conditions.
- (c) A local school board may designate hazardous conditions.

**R277-600-11. Exceptions.**

- (1)(a) When undue hardships and inequities are created through exact application of these standards, a school district may request an exception to this rule from the Superintendent for individual cases.
- (b) Hardships or inequities under Subsection (1)(a) may include written evidence demonstrating that no significant increased costs, less than 1% of a school district's transportation budget, is incurred due to a waiver or that students cannot be provided services consistent with the law due to transportation exigencies.
- ~~(c) The Superintendent may consult with the Pupil Transportation Advisory Committee in considering the exemption.~~
- (2) A school district ~~shall~~ may not be penalized in the computation of its state allocation for the presence on an approved to and from school route of an ineligible student who does not create an appreciable increase in the cost of the route.
- (3) There is an appreciable increase in cost under Subsection (2) if, because of the presence of ineligible students, any of the following occurs:
  - (a) another route is required;
  - (b) a larger or additional bus is required;
  - (c) a route's mileage is increased;
  - (d) the number of pick-up points below the mileage limits for eligible students exceeds one; and
  - (e) significant additional time is required to complete a route.
- (4)(a) An ineligible student may ride a school bus on a space available basis.
- (b) An eligible student may not be displaced or required to stand in order to make room for an ineligible student.

**R277-600-12. Rural School Transportation Reimbursement Program.**

- (1) The Superintendent shall annually determine which LEAs are eligible for rural school transportation reimbursement using the criteria described in Section 53F-2-520.
- (2) The Superintendent shall measure eligibility based on:
  - (a) the most recent October 1 UTREx submission; and
  - (b) the prior year's transportation data submitted in accordance with Section R277-484-3.
- (3) By November 1 annually, the Superintendent shall notify an LEA that the LEA may seek reimbursement.
- (4) An LEA eligible for reimbursement shall:
  - (a) provide evidence to the Superintendent in the first year of the LEA's eligibility that the LEA has provided transportation to and from the school for the past five years;



- (b) submit to the Superintendent in the first year of the LEA's eligibility the LEA's current year pupil transportation Schedule A1 by December 30; and
- (c) in subsequent years of eligibility, submit all transportation reports in accordance with Section R277-484-3.
- (5) Submission of the pupil transportation Schedule A1 shall constitute an annual application and request for reimbursement by an LEA with an eligible school.
  - (6)(a) The Superintendent shall calculate and process reimbursements to LEAs once a year.
  - (b) The Superintendent shall determine allowable costs eligible for reimbursement taking into account:
    - (i) eligible routes; and
    - (ii) eligible miles and minutes as reported on the pupil transportation Schedule A1.
  - (c) The Superintendent shall reimburse an LEA based on the LEA's percentage of total unreimbursed eligible costs submitted.
  - (d) If the annual appropriation is insufficient to fund all submitted eligible cost payments, the Superintendent shall prorate the reimbursement up to the amount of the appropriation.
  - (7) An LEA shall permit the Superintendent to review accounting ledgers, student records, and transportation records upon request in order to determine:
    - (a) a school's eligibility in accordance with Subsection (1); and
    - (b) allowability of an LEA's submitted costs.

**~~[R277-600-13. Rural School District Transportation Grant Program.~~**

- ~~(1) The Superintendent shall annually determine which school districts are eligible for the rural school district transportation grant program using the criteria described in Subsection 53F-2-417(2).~~
- ~~(2) The Superintendent shall measure school district eligibility based on:
 
  - ~~(a) the prior year's transportation data submitted in accordance with Section R277-484-3; and~~
  - ~~(b) the most recent county classification.~~~~
- ~~(3)(a) By November 1 annually, the Superintendent shall notify a school district that the school district may apply for a grant and the amount of available grant funds based on the prior year eligible miles for unreimbursed costs associated with activities described in Subsection 53F-2-417(3).~~
- ~~(b) The Superintendent shall prorate an eligible school district's award amount up to the amount of the appropriation.~~
- ~~(4) A school district eligible for the grant program shall:
 
  - ~~(a) provide assurance within the school district's application that matching funds from the school district's board local levy will be utilized for the purposes outlined in Subsection 53F-2-417(1); and~~
  - ~~(b) report revenue from the board local levy and related expenditures for the grant program in the school district's Annual Program Report for that specific fiscal year.~~~~
- ~~(5)(a) The Superintendent shall process the grant award in the state's grants management system~~
- ~~(b) The Superintendent shall allocate funds to eligible school districts once a year.~~
- ~~(6) A school district shall permit the Superintendent to review accounting ledgers, student records, and transportation records upon request in order to determine:
 
  - ~~(a) a school's eligibility in accordance with Subsection (1); and~~
  - ~~(b) allowability of an LEA's submitted program costs.~~~~
- ~~(7) If a school district does not comply with the requirements of the grant program, the Superintendent may impose corrective action in accordance with Rule R277-114.]~~

**KEY: school buses, school transportation**

**Date of Last Change: 2024[April 7, 2023]**

**Notice of Continuation: June 4, 2021**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-501(1)(d); 53E-3-401(4); 53F-2-415; 53F-2-403**

**NOTICE OF SUBSTANTIVE CHANGE**

**TYPE OF FILING:** Amendment

**Rule or Section Number:**

**R277-613**

**Filing ID: 56730**

**Agency Information**

<b>1. Title catchline:</b>	Education, Administration
<b>Building:</b>	Board of Education
<b>Street address:</b>	250 E 500 S
<b>City, state:</b>	Salt Lake City, UT 84111
<b>Mailing address:</b>	PO Box 144200
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4200

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

**General Information**

<b>2. Rule or section catchline:</b>
R277-613. LEA Policies and Training Regarding Bullying, Cyber-bullying, Hazing, Retaliation, and Abusive Conduct
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being amended due to the passage of H.B. 84 during the 2024 General Session.
<b>4. Summary of the new rule or change:</b>
The amendments specifically align with H.B. 84 (2024) schools safety amendments which made several changes to Local Educational Agency (LEA) policy requirements that are reflected in this rule draft.  Changes include additional reporting requirements for LEAs for cyber-bullying, retaliation, and hazing incidents. It also clarifies requirements for parent communication processes.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This rule change is not expected to have fiscal impact on state government revenues or expenditures. H.B. 84 (2024) necessitated changes to the rule and the Utah State Board of Education (USBE) believes the fiscal impacts were captured in the fiscal note to H.B. 84 (2024). The rule does not add any fiscal impacts outside the fiscal note for USBE or LEAs or other entities.
<b>B) Local governments:</b>
This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. H.B. 84 (2024) necessitated changes to the rule and USBE believes the fiscal impacts were captured in the fiscal note to H.B. 84 (2024). The rule does not add any fiscal impacts outside the fiscal note for USBE or Local Education Agencies (LEAs) or other entities.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
This rule change is not expected to have fiscal impacts on small businesses' revenues or expenditures. This only impacts USBE and LEAs.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):
This rule change is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. This only impacts USBE and LEAs.

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

There are no compliance costs for affected persons. H.B. 84 (2024) necessitated changes to the rule and USBE believes the fiscal impacts were captured in the fiscal note to H.B. 84 (2024). The rule does not add any fiscal impacts outside the fiscal note for USBE or LEAs or other entities.

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

Regulatory Impact Table			
Fiscal Cost	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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this 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:**

Article X, Section 3	Subsection 53E-3-401(4)	Section 53G-9-607
Section 53E-3-501	Section 53G-8-209	Title 53G, Chapter-9

**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:** 10/01/2024

**9. This rule change MAY become effective on:** 10/08/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	08/15/2024
---	--	--------------	------------

**R277. Education, Administration.**

**R277-613. LEA Policies and Training Regarding Bullying, Cyber-bullying, Hazing, Retaliation, and Abusive Conduct.**

**R277-613-1. Authority, ~~and~~ Purpose, and Oversight Category.**

(1) This rule is authorized by:

NOTICES OF PROPOSED RULES

- (a) Section 53G-9-606, which directs the board to monitor LEA development and implementation of bullying and hazing policies;
  - (b) Section 53G-9-607, which directs the board to make rules that establish standards for high quality training related to bullying, cyber-bullying, hazing, and abusive conduct, and retaliation;
  - (c) Section 53E-3-501, which directs the Board to establish rules and minimum standards for the public schools governing discipline and control;
  - (d) Section 53G-8-209, which requires the Board, when making rules regarding student participation in co-curricular or extracurricular activities, to include:
    - (i) prohibitions against the use of foul, abusive, or profane language while in the classroom, on school property, or during a school sponsored activity; and
    - (ii) prohibitions against hazing, demeaning, or assaultive behavior, whether consensual or not;
  - (e) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and
  - (f) Subsection 53E-3-401(4)(a), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.
- (2) The purpose of th[e]is rule is to:
- (a) require LEAs to develop, update, and implement bullying, cyber-bullying, hazing, retaliation, and abusive conduct policies at the school district and school level;
  - (b) provide for regular and meaningful training of school employees and students;
  - (c) provide for enforcement of the policies in schools, at the state level and in public school athletic programs;[-and]
  - (d) require an LEA to review allegations of bullying, cyber-bullying, hazing, retaliation, and abusive conduct[-]; and
  - (e) require an LEA to report bullying, cyber-bullying, hazing, and retaliation.
- (3) This Rule R277-613 is categorized as Category 3 as described in Rule R277-111.

**R277-613-2. Definitions.**

- (1) "Abusive conduct" means the same as that term is defined in Subsection 53G-9-601(1).
- (2) "Allegation" means a claim or assertion that someone has engaged in disruptive student behavior but has not been confirmed through a formal process as described in Subsection (5).
- ~~(2)3~~(a) "Bullying" means the same as that term is defined in Subsection 53G-9-601(2).
- (b) The conduct described in Subsection 53G-9-601(2) constitutes bullying, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.
- ~~(3)4~~ "Civil rights violation" means bullying, cyber-bullying, harassment, or hazing that is targeted at a student based upon the students' or employees' identification as part of any group protected from discrimination under the following federal laws:
  - (a) Title VI of the Civil Rights Act of 1964;
  - (b) Title IX of the Education Amendments of 1972;
  - (c) Section 504 of the Rehabilitation Act of 1973; or
  - (d) Title II of the Americans with Disabilities Act of 1990.
- ~~(4)5~~ "Cyber-bullying" means the same as that term is defined in Subsection 53G-9-601(4).
- ~~(5)6~~ "Disruptive student behavior" means the same as that term is defined in Subsection 53G-8-210(1)(a).
- ~~(6)7~~ "Hazing" means the same as that term is defined in Subsection 53G-9-601(5).
- ~~(7)8~~(a) "Incident" means ~~[one or more infractions committed by a student or group of students acting in concert, at the same time and place]~~ a verified incident as defined in Subsection 53G-9-601(7).
  - (b) A single incident may involve:
    - ~~(i) one or more [victims and one or more offenders.]~~ students to whom an incident is directed;
    - ~~(ii) one or more students as causes of the incident; or~~
    - ~~(iii) a student as both a subject and a cause of the incident.~~
  - ~~(c) A single incident occurs at the same time and in the same place.~~
- ~~(8) "Infraction" means an act of prohibited behavior.~~
- (9) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.
- (10) "Participant" means any student, employee, or volunteer coach participating in a public school sponsored athletic program or activity, including a curricular, co-curricular, or extracurricular club, or activity.
- (11) "Policy" means standards and procedures that:
  - (a) are required in Section 53G-9-605;
  - (b) include ~~[the provisions of]~~Section 53G-8-202; and
  - (c) provide additional standards, procedures, and training adopted in an open meeting by an LEA board that:
    - (i) define bullying, cyber-bullying, hazing, retaliation, and abusive conduct;
    - (ii) prohibit bullying, cyber-bullying, hazing, retaliation, and abusive conduct;
    - (iii) require regular annual discussion and training designed to prevent bullying, cyber-bullying, hazing, abusive conduct, and retaliation among school employees and students; and
    - (iv) provide for enforcement through employment action or student discipline.
- (12) "Restorative justice practice" means a discipline practice that brings together students, school personnel, families, and community members to resolve conflicts, address disruptive behaviors, promote positive relationships, and healing.
- (13) "Retaliate" or "retaliation" means the same as that term is defined in Subsection 53G-9-601(~~7~~11).
- (14) "School employee" means the same as that term is defined in Subsection 53G-9-601(10).

(15) "Trauma-Informed Care" means a strengths-based service delivery approach that is grounded in an understanding of and responsiveness to the impact of trauma, that emphasizes physical, psychological, and emotional safety for both the ~~[alleged victim]~~ students subjected to the incident, and the individual who is alleged to have engaged in prohibited conduct, and that creates opportunities for targets to rebuild a sense of control and empowerment.

(16) "Verification" means that an alleged incident has been found to be substantiated through a formal investigation process as described in Subsection (5).

~~(16)~~ (17) "Volunteer" means a non-employee with significant, unsupervised access to students in connection with a school assignment.

### **R277-613-3. Superintendent Responsibilities.**

(1) The Superintendent shall provide:

(a) a model policy on bullying, cyber-bullying, hazing, and retaliation as required in Section 53G-9-606;

(b) subject to availability of funds, model training and training opportunities on:

(i) the prevention and identification of bullying, cyber-bullying, hazing, abusive conduct, and retaliation, that an LEA may use to train the LEA's employees, contract employees, and volunteers, including coaches; and

(ii) the reporting and review requirements in Section R277-613-5;

(c) subject to availability of funds, evidence-based practices and policies related to the prevention of bullying, cyber-bullying, hazing, abusive conduct, and retaliation.

(2) Although an LEA ~~[is required to]~~ may not have a policy on bullying, cyber-bullying, hazing, retaliation and abusive conduct as described in Section 53G-9-605 and this rule and provide training as described in Section 53G-9-607 and this rule, the LEA is not required to use the model policy or model training developed by the Superintendent described in Subsection (1).

(3) The Board may interrupt disbursements of funds consistent with Subsection 53E-3-401(8) and Rule R277-114 for failure of an LEA to comply with:

(a) Title 53G, Chapter 9, Bullying and Hazing; and

(b) this rule.

(4) In addition to the requirements of Title 53G, Chapter 9, Bullying and Hazing and this rule, LEAs are required to comply with applicable federal requirements.

### **R277-613-4. LEA Responsibility to Create or Update Bullying Policies.**

(1) In addition to the requirements of Subsection 53G-9-605(3), an LEA shall:

(a) develop, update, and implement policies as required by Section 53G-9-605 and this rule, which shall include a prohibition on:

(i) bullying;

(ii) cyber-bullying;

(iii) hazing;

(iv) retaliation;

(v) abusive conduct; and

(vi) making a false report.

(b) post a copy of the LEA's policy on the LEA website;

(c) develop an action plan to address a reported incident of bullying, cyber-bullying, hazing, abusive conduct, or retaliation;

(d) provide a requirement for a signed statement that meets the requirements of Subsection 53G-9-605(3)(h) annually; ~~and~~

(e) review the policies required by this Subsection (1) regularly with input from stakeholders, as described in Subsection 53G-9-605(2)(a) ~~and~~ and

(f) include language outlining response to students who share a recording of an act of bullying, cyber-bullying, hazing, abusive conduct, and retaliation to impact or encourage future incidents.

(2) A signed statement under Subsection (1)(d) may not be used as a substitute for other training requirements as set forth in this rule.

(3)(a) As required by Section 53G-9-605, an LEA shall notify a student's parent of:

(i) the student's threat of suicide; or

(ii) an incident of bullying, cyber-bullying, hazing, or retaliation involving the student as a ~~[victim]~~ student subjected to the incident, or an individual who is alleged to have engaged in prohibited conduct; and

(iii) of the action plan to address the incident.

(b) An LEA shall:

(i) designate the appropriate school employee to provide parental notification; and

(ii) designate the format in which notification is provided to a parent and maintained by the LEA.

(c) An LEA shall:

(i) make a notification required in Subsection (3)(a) in a timely manner; ~~and~~

(ii) provide the parent with:

(A) suicide prevention materials and information as recommended by the Superintendent in accordance with Subsection 53G-9-604(2)(b);

(B) information on ways to limit a student's access to fatal means, including firearms or medication; and

(C) information and resources on the healthy use of social media and online practices ~~and~~ and

(iii) produce and maintain a record that:

(A) verifies that the school notified each parent in accordance with the law; and

NOTICES OF PROPOSED RULES

~~(B) tracks implementation of the action plan addressing the incident, if applicable.~~

(4) Subject to the parental consent requirements of Section 53E-9-203, if applicable, an LEA shall assess students about the prevalence of bullying, cyber-bullying, hazing, and retaliation in LEAs and schools, specifically locations where students are unsafe and additional adult supervision may be required, such as playgrounds, hallways, and lunch areas.

(5) An LEA shall take strong responsive action against retaliation, including assistance to ~~[victims]~~students subjected to the incident and their parents in reporting subsequent problems and new incidents.

(6)(a) An LEA shall provide that students, school employees, coaches, and volunteers receive training on bullying, cyber-bullying, hazing, retaliation, and abusive conduct from individuals qualified to provide such training.

(b) The training described in Subsection (6)(a) shall:

(i) include information on:

(A) bullying, cyber-bullying, hazing retaliation, and abusive conduct;

(B) discrimination under the following federal laws:

(I) Title VI of the Civil Rights Act of 1964;

(II) Title IX of the Education Amendments of 1972;

(III) Section 504 of the Rehabilitation Act of 1973; and

(IV) Title II of the Americans with Disabilities Act of 1990;

(C) how bullying, cyber-bullying, hazing retaliation, and abusive conduct are different from discrimination and may occur separately from each other or in combination;

(D) how bullying, cyber-bullying, hazing, retaliation, and abusive conduct are prohibited based upon the students' or employees' actual or perceived characteristics, including race, color, national origin, sex, disability, religion, gender identity, sexual orientation, or other physical or mental attributes or conformance or failure to conform with stereotypes; and

(E) the right of free speech and how it differs for students, employees, and parents;

(ii) complement the suicide prevention program required for students under Rule R277-620 and the suicide prevention training required for licensed educators consistent with Subsection 53G-9-704(1); and

(iii) include information on when issues relating to this rule may lead to student or employee discipline.

(7) The training described in Subsection (6) shall be offered to:

(a) new school employees, coaches, and volunteers within the first year of employment or service; and

(b) all school employees, coaches, and volunteers at least once every three years after the initial training.

(8)(a) An LEA's policies developed under this section shall complement existing school policies and research based school discipline plans.

(b) Consistent with Rule R277-609, the discipline plan shall provide direction for dealing with bullying, cyber-bullying, hazing, retaliation, abusive conduct~~[-and disruptive students]~~.

~~[-(c) An LEA shall ensure that a discipline plan required by Rule R277-609:~~

~~(i) directs schools to determine the range of behaviors and establish the continuum of administrative procedures to be used by school personnel to address the behavior of students;~~

~~(ii) provides for identification, by position, of individuals designated to issue notices of disruptive student behavior, bullying, cyber-bullying, hazing, retaliation, and abusive conduct;~~

~~(iii) designates to whom notices shall be provided;~~

~~(iv) provides for documentation of disruptive student behavior in the LEA's student information system;~~

~~(v) includes strategies to provide for necessary adult supervision;~~

~~(vi) is clearly written and consistently enforced; and~~

~~(vii) includes administration, instruction and support staff, students, parents, community council and other community members in policy development, training and prevention implementation so as to create a community sense of participation, ownership, support and responsibility.]~~

**R277-613-5. Reporting and Incident Investigations of Allegations of Bullying, Cyber-bullying, Hazing, Retaliation and Abusive Conduct.**

(1) In accordance with an action plan adopted in accordance with Subsection R277-613-4(1)(c), an LEA shall:

(a) investigate allegations of incidents of bullying, cyber-bullying, hazing, retaliation, and abusive conduct in accordance with this section;

(b) provide an individual who investigates allegations of incidents of bullying, cyber-bullying, hazing, retaliation, and abusive conduct with adequate training on conducting an investigation;~~[-and]~~

~~(c) designate at least one individual at the LEA level who:~~

~~(i) can provide training to an individual described in Subsection (1)(b);~~

~~(ii) oversees the implementation of the action plan;~~

~~(iii) monitors the implementation of the LEA policy regarding communication plans;~~

~~(iv) acts as the LEA liaison to the state board regarding bullying, cyber-bullying, hazing, abusive conduct, and retaliation; and~~

~~(v) assists with school case-specific needs; and~~

~~(e)d~~ identify an LEA employee to be the point person with training and expertise to assist, direct, and supervise training of other employees in the responsibilities established in Subsections R277-613-5(1)(a) and (b).

(2)(a) An LEA shall investigate allegations of incidents described in Subsection (1)(a) by interviewing:

(i) the ~~[alleged victim]~~students individual subjected to the incident;

(ii) the individual who is alleged to have engaged in prohibited conduct;  
(iii) parents of the ~~[alleged victim]~~ students subjected to the incident and the individual who is alleged to have engaged in prohibited conduct;

- (iv) any witnesses;
- (v) school staff familiar with the ~~[alleged victim]~~ student subjected to the incident;
- (vi) school staff familiar with the individual who is alleged to have engaged in prohibited conduct; or
- (vii) other individuals who may provide additional relevant information.

(c) An individual who investigates an allegation of an incident shall inform an individual being interviewed that:

- (i) to the extent allowed by law, the individual shall keep all details of the interview confidential; and
- (ii) further reports of bullying will become part of the review.

(3) The confidentiality requirement in Subsection (2)(c) does not apply to:

- (a) conversations with law enforcement professionals;
- (b) requests for information pursuant to a warrant or subpoena;
- (c) a state or federal reporting requirement; or
- (d) other reporting required by this rule.

(4) In conducting an investigation under this section, an LEA may:

- (a) review disciplinary reports of involved students; and
- (b) review physical evidence, consistent with search and seizure law in schools, which may include:
  - (i) video or audio;
  - (ii) notes;
  - (iii) email;
  - (iv) text messages;
  - (v) social media; or
  - (vi) graffiti.

(5) An LEA shall adopt a policy outlining under what circumstances the LEA will report incidents of bullying, cyber-bullying, harassment, and retaliation to law enforcement.

(6) An LEA shall adopt a policy outlining under what circumstances the LEA will investigate and report incidents of bullying, cyber-bullying, retaliation, and abusive conduct, as civil rights violations.

(7) Following ~~[an investigation of a confirmed allegation of]~~ a[n] verified incident of bullying, cyber-bullying, hazing, retaliation, or abusive conduct, ~~[if appropriate]~~, an LEA ~~[may]~~ shall create and implement an action plan for each incident in accordance with Section 53G-9-605.5 and Subsection (6).

~~(8) Following a verified incident of bullying, cyber-bullying, hazing, retaliation, or abusive conduct, if appropriate, an LEA may:~~

- ~~(a) in accordance with the requirements in Subsection (6), take positive restorative justice practice action, in accordance with policies established by the LEA; and~~
- ~~(b) [support involved students through trauma-informed practices, if appropriate.] provide supportive services designed to preserve the student's access to educational opportunities and a sense of safety; or~~
- ~~(c) develop a communication process.~~

~~(8)2(a) A [n] alleged victim student to whom an incident is directed, is not required to participate in a restorative justice practice as described in Subsection (7)(a) with an individual who is alleged to have engaged in prohibited conduct.~~

~~(b) If an LEA would like a student to participate in a restorative justice practice, the LEA shall notify the student's parent of the restorative justice practice and obtain consent from the student's parent before including the student in the process.~~

~~(9)10~~ A grievance process required under Subsection 53G-9-605(3)(f) shall be consistent with the LEA's established grievance process.

~~(10)11~~ An LEA shall follow up with the parents of all parties to:

- (a) inform parents when an investigation is concluded;
- (b) inform parents what safety measures will be in place for their child, as determined by the investigation;
- (c) provide additional information about the investigation or the resolution consistent with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g; and
- (d) inform parents of appeal options, if available, if the parents disagree with resolution of the investigation.

~~(11)12~~ An LEA shall, as required by Subsection 53G-9-606(2), report the following annually, on or before June 30, to the Superintendent in accordance with the Superintendent's submission requirements:

- (a) a copy of the LEA's policy required in Section R277-613-4;
- (b) implementation of the signed statement requirement described in Subsection 53G-9-605(3)(h);
- (c) verification of the LEA's training of school employees relating to bullying, cyber-bullying, hazing, retaliation, and abusive conduct described in Section 53G-9-607;

~~(d) report [verified and alleged] verified incidents of bullying, cyber-bullying, hazing, and retaliation~~, ~~[and abusive conduct]~~; and  
~~[the number and type of incidents described in Subsection (11)(d) required to be reported separately under federal law, including the reporting requirements in:~~

- ~~(i) Title VI of the Civil Rights Act of 1964;~~
- ~~(ii) Title IX of the Education Amendments of 1972;~~
- ~~(iii) Section 504 of the Rehabilitation Act of 1973; and~~
- ~~(iv) Title II of the Americans with Disabilities Act of 1990; and]~~

NOTICES OF PROPOSED RULES

~~(f)~~(e) the number and type of incidents described in Subsection (11)(d) that include a student or LEA employee who was alleged bullied, cyber-bullied, hazed, or retaliated against based on the student's or LEA employee's actual or perceived characteristics, including disability, race, national origin, religion, sex, gender identity, or sexual orientation~~[-]~~, including the federal reporting requirements for civil rights violations.

~~(12)~~13) The requirements of this rule are in addition to any federal requirements, including reporting civil rights violations to the appropriate entities and taking other appropriate action.

**R277-613-6. Response to Verified Incidents of Bullying or Cyber-bullying.**

- (1) A school or LEA shall create an action plan for an incident that includes:
  - (a) a communication plan designed to keep each parent updated on the implementation of the action plan as required in Section 53G-9-605; and
  - (b) with respect to the student to whom the incident was directed and in direct coordination with the student's parent:
    - (i) a tailored response to the incident that addresses the student's needs;
    - (ii) a mechanism to consider consequences or accommodations the student may need regarding decreased exposure or interactions with the student who caused the incident;
    - (iii) notification of the consequences and plan to address the behavior of the student who caused the incident;
    - (iv) supportive measures designed to preserve the student's access to educational services and opportunities; and
    - (v) to the extent available, access to other resources the parent requests for the student; and
  - (c) with respect to the student who caused the incident and in direct coordination with the student's parent:
    - (i) a range of tailored and appropriate consequences, making reasonable effort to preserve the student's access to educational services and activities;
    - (ii) a process to determine and provide any needed resources related to the underlying cause of the incident;
    - (iii) supportive measures designed to preserve the student's access to educational services and opportunities while protecting the safety and well-being of other students; and
    - (iv) a process to remove the student from school in an emergency situation, including a description of what constitutes an emergency.
- (2) A school or LEA may not include in an action plan a requirement that the student to whom the incident was directed change the student's:
  - (a) educational schedule or placement; or
  - (b) participation in a school sponsored sport, club, or activity.
- (3) A school or LEA shall establish an appeals process for a student who causes an incident or the student's parent to appeal one or more of the consequences included in an action plan.
- (4) If, after a school or LEA attempts to involve a parent in the development and implementation of an action plan, the parent chooses not to participate in the process, the school or LEA may develop and implement an action plan without the parent's involvement.

**R277-613-~~6~~7. Training by LEAs Specific to Participants in Public School Athletic Programs and School Clubs.**

- (1)(a) ~~[Prior to]~~Before any student, employee, or volunteer coach participating in a public school sponsored athletic program, both curricular and extracurricular, or extracurricular club or activity, the student, employee, or coach shall participate in bullying, cyber-bullying, hazing, retaliation, and abusive conduct prevention training.
- (b) A training described in Subsection (1)(a) shall be offered to new participants on an annual basis and to all participants at least once every three years.
- (2) An LEA shall inform student athletes and extracurricular club members of prohibited activities under this rule and potential consequences for violation of the law and th[e]is rule.
- (3) An LEA shall maintain training participant lists or signatures, to be provided to the Board upon request.

**R277-613-~~7~~8. Abusive Conduct.**

- (1) An LEA shall prohibit abusive conduct.
- (2) An LEA's bullying, cyber-bullying, hazing, abusive conduct, and retaliation policy, required in Section 53G-9-605 and this rule, shall include a grievance process for a school employee who has experienced abusive conduct as described in Subsection 53G-9-605(3)(f).

**KEY: abusive conduct, bullying, harassment, hazing, training**

**Date of Last Change: 2024~~[August 8, 2023]~~**

**Notice of Continuation: June 13, 2023**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53G-9-607; 53E-3-501; 53G-8-209; 53G-9**

**NOTICE OF SUBSTANTIVE CHANGE**

<b>TYPE OF FILING:</b> Amendment		
<b>Rule or Section Number:</b>	<b>R277-625</b>	<b>Filing ID: 56731</b>



### Agency Information

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

### General Information

<b>2. Rule or section catchline:</b>
R277-625. Mental Health Screeners
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being amended due to the passage of H.B. 413 during the 2024 General Session.
<b>4. Summary of the new rule or change:</b>
The amendments specifically align with new changes made to the program during the 2024 legislative session. HB 413 amended the student mental health screening program to extend the deadline to 08/01/2024 to allow a local education agency (LEA) to determine whether to be a participating or non-participating LEA.  The bill requires reporting from the State Board of Education regarding the mental health screening program and provides instructions to the State Board of Education on how to distribute funds to participating LEAs.

### Fiscal Information

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This rule change is not expected to have fiscal impact on state government revenues or expenditures. H.B. 413 (2024) necessitated changes to the rule and the Utah State Board of Education (USBE) believes the fiscal impacts were captured in the fiscal note to H.B. 413 (2024).  The rule does not add any fiscal impacts outside the fiscal note for USBE or LEAs or other entities.
<b>B) Local governments:</b>
This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. H.B. 413 (2024) necessitated changes to the rule and USBE believes the fiscal impacts were captured in the fiscal note to H.B. 413 (2024).  The rule does not add any fiscal impacts outside the fiscal note for USBE or Local Education Agencies (LEAs) or other entities.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. This only impacts USBE and LEAs.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased

revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.

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

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

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

There are no compliance costs for affected persons. H.B. 413 (2024) necessitated changes to the rule and USBE believes the fiscal impacts were captured in the fiscal note to H.B. 413 (2024). The rule does not add any fiscal impacts outside the fiscal note for USBE or LEAs or other entities.

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

Regulatory Impact Table			
Fiscal Cost	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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this 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:**

A Article X, Section 3	Subsection 53E-3-401(4)	Section 53F-2-522
------------------------	-------------------------	-------------------

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	10/01/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	10/08/2024
---	------------

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

## Agency Authorization Information

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	08/15/2024
---	--	--------------	------------

### R277. Education, Administration.

#### R277-625. Mental Health Screeners.

##### R277-625-1. Authority, ~~and~~ Purpose, and Oversight Category.

- (1) This rule is authorized by:
  - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
  - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;
  - (c) Section 53F-2-522 which directs the board to make rules regarding the selection of a mental health screener and financial aid for qualifying parents.
- (2) The purpose of this rule is to:
  - (a) provide the approval process for a mental health screener chosen by an LEA; and
  - (b) establish the approval and distribution of funds for a qualifying parent to receive financial assistance for related mental health services.
- (3) This Rule R277-625 is categorized as Category 2 as described in Rule R277-111.

##### R277-625-2. Definitions.

- (1) "Division" means the same as the term is defined in Section 53F-2-522.
- (2) "Mental health" means a person's emotional, psychological, and social well-being, which can affect how a person thinks, feels, and acts, including how a person handles stress, relates to others, and makes healthy choices.
- (3) "Mental health screener" or "screener" means a systematic tool that:
  - (a) identifies if a student is experiencing, or is at risk of experiencing, issues related to the student's mental health;
  - (b) is used for early identification of the onset of mental health conditions, enabling the mental health conditions to be potentially addressed; and
  - (c) is not:
    - (i) a diagnostic tool; or
    - (ii) a system or process used by a student's teacher to observe behavior for targeted learning interventions.
- (4) "Mental health services" means the same as the term is defined in Subsection R523-1-3(3).
- (5) "Qualifies for financial assistance" means a qualifying parent that has a student receiving educational services through an LEA who:
  - (a) receives free or reduced lunch; or
  - (b) as recommended by the local mental health authority, demonstrates need including being:
    - (i) uninsured;
    - (ii) underinsured;
    - (iii) ineligible for Medicaid to cover part or all of any recommended mental health treatments; or
    - (iv) demonstrates a high need for interventions based upon results of the LEA's mental health screener.
  - (6) "Qualifying parent" means the same as the term is defined in Subsection 53F-2-522(1)(d).
  - (7) "Relevant services" means mental health services provided to a student that are directly related to mental health needs identified by a student's mental health screening.

##### R277-625-3. Approval of Mental Health Screeners.

- (1)(a) The Superintendent, in consultation with the Division, shall publish annually a list of pre-approved mental health screeners to the Board's website.
  - (b) the published pre-approved list shall include:
    - (i) the name or brand of the mental health screener including a link to the screener's website;
    - (ii) the recommended ages for the mental health screener;
    - (iii) any limitations of the mental health screener including the typical level of false positives;
    - (iv) the mental health conditions the mental health screener can detect; and
    - (v) the scientific data or research used to verify a screener is evidence based.
  - (2) The Board shall approve:
    - (a) the pre-approved mental health screener list; and
    - (b) the mental health conditions for which a screener can be used.
  - (3) All pre-approved mental health screeners shall comply with the requirements as described in Title 53E, Chapter 9, Student Privacy and Data Protection, and the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g.
  - (4) An LEA governing board shall notify the Superintendent by August 1 of each year, whether the LEA will be a participating LEA or non-participating LEA, on a form provided by the Superintendent, in compliance with the requirements in Section 53F-2-522.
  - (5) If the LEA chooses to apply for use of a mental health screener that is not on the pre-approved list, the LEA shall submit an application in a form prescribed by the Superintendent specifying:
    - (a) the mental health screener proposed for use by the LEA;

NOTICES OF PROPOSED RULES

- (b) the reason for choosing the mental health screener over a screener from the pre-approved list;
  - (c) the approved mental health conditions the mental health screener measures;
  - (d) how the mental health screener complies with all state and federal data privacy laws; and
  - (e) the scientific data or research demonstrating the mental health screener is evidence based and meets industry standards;
  - (f) why the mental health screener is age appropriate for each grade the screener is administered; and
  - (g) why the mental health screener is an effective tool for identifying whether a student has a mental health condition that requires intervention.
- (6) The Superintendent shall review the application in consultation with the Division and approve or deny the application within 30 days of receipt.
- (7) If the application is approved, the Superintendent shall submit the approved application to the Board for final approval.
- (8) Subject to legislative appropriation, the Superintendent shall annually determine a maximum reimbursement amount an LEA may receive for use of a mental health screener.
- (9) An LEA may request a reimbursement from the Superintendent in writing in an amount not to exceed the amount described in Subsection (8).
- (10)(a) An LEA shall require one or more relevant staff, who will be administering a mental health screener, to attend an annual mental health screener training provided by the Superintendent in collaboration with the Division;
- (b) the training described in Subsection (10)(a) shall provide an LEA with information needed for appropriate parental consent including:
- (i) consent shall be obtained:
    - (A) ~~within~~ not more than eight weeks before administration of the mental health screener; and
    - (B) in accordance with Subsection 53E-9-203(4);
  - (ii) the consent form shall be provided separately from other consent forms given to a parent pursuant to other state or federal laws;
  - (iii) additional variables that might influence a screener's results; and
  - (iv) a statement that:
    - (A) the mental health screener is optional;
    - (B) a screener is not a diagnostic tool;
    - (C) a parent has the right to seek outside resources or opinions; and
    - (D) specifies which board approved mental health conditions the mental health screener measures.
- (11) An LEA may not administer a mental health screener if the LEA has not attended the annual mental health screener training described in Subsection (10).
- (12) An LEA shall report annually to the Superintendent aggregate data regarding the types of LEA provided mental health interventions, referrals, or other actions taken based on screener results.

**R277-625-4. Data Privacy.**

- (1)(a) An LEA shall ensure all data collected or stored by a mental health screener complies with all state and federal data privacy laws and requirements, including those described in Subsection R277-625-3(3).
- (b) notwithstanding Subsection (1)(a), an LEA shall provide a parent with a list of all parties that may receive any data related to a student's mental health screener before the parent providing consent.
- (2) An LEA shall provide a parent with a list of all data potentially collected by the mental health screener before consenting to a student's mental health screening.
- (3) An LEA shall provide the parent of a screened student with:
- (a) results as described in Subsection 53F-2-522(4)(d);
  - (b) applicable available resources; and
  - (c) who has access to the screener data.
- (4) If an LEA has received parental consent, an LEA may share data collected from the mental health screener with a school's multidisciplinary team.
- (5) An LEA shall retain and dispose of all data related to a student's mental health screener in accordance with an approved retention schedule not to exceed three years.

**R277-625-5. Procedures and Criteria for Awarding Grants.**

- (1) The Superintendent shall:
- (a) distribute 90% of the available annual funds to all participating LEAs based on the most recent average daily membership count available; and
  - (b) distribute the remaining 10% of available annual funds on an as-needed basis to participating LEAs to meet the LEA needs as described in Subsection 53F-2-522(5)(a).

**R277-625-[5]6. Financial Assistance for a Qualifying Parent.**

- (1) An LEA that has elected to participate as described in Subsection R277-625-3(4)(b), may receive reimbursement for relevant services obtained by a qualifying parent who receives financial assistance.
- (2) An LEA may not receive reimbursement for a qualifying parent if:
- (a) the qualifying parent's student has begun to receive relevant services outside of the school setting before seeking reimbursement;
  - (b) the LEA can provide the relevant services, including relevant services provided by a third party through a contract with the LEA;

(c) except for as provided in Subsection (d), the qualifying parent has received reimbursement for the same relevant services within one year from the date the relevant services began for the student; or

(d) an LEA may provide reimbursement to a qualifying parent for the same relevant services within one year from the date relevant services began for the student if:

- (i) the LEA has no other qualifying parents seeking reimbursement by April 1 and;
- (ii) has reimbursement funds remaining.

(3) An LEA may not receive reimbursements that exceed the LEA's award amount as described in Subsection (4).

(4) An LEA that has elected to participate as described in Subsection R277-625-3(4)(b), shall receive a total award amount based on need as determined by the Superintendent.

(5) The Superintendent shall determine a participating LEA's need by considering the LEA's ability to support and provide mental health services for a student including:

- (a) the availability of mental health services within the LEA;
- (b) the availability of mental health services within the LEA's surrounding community;
- (c) the overall accessibility of mental health services for students within the LEA;
- (d) the current student demand for mental health services within an LEA; and
- (e) capacity of the LEA to meet existing and future student demands for mental health services.

**KEY: mental health screener, mental health, prevention**

**Date of Last Change:** ~~January 10,~~ 2024

**Authorizing, and Implemented or Interpreted Law:** Art X Sec 3; 53E-3-401(4); 53F-2-522

NOTICE OF SUBSTANTIVE CHANGE		
<b>TYPE OF FILING:</b> Amendment		
<b>Rule or Section Number:</b>	<b>R277-630</b>	<b>Filing ID:</b> 56732

**Agency Information**

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

**General Information**

<b>2. Rule or section catchline:</b>
R277-630. Child Sex Abuse and Human Trafficking Prevention Training and Instruction
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being amended due to the passage of S.B. 205 during the 2024 General Session.
<b>4. Summary of the new rule or change:</b>
The amendments specifically update Rule R277-630 Sections 1, 2, and 3. Updates include legislative requirements for the addition of the definition of age appropriate training and a Request For Proposal (RFP) process for a contractor to provide ongoing instruction in Utah Schools.
This rule also provides flexibility and funding for schools that opt to use other approved providers.

**Fiscal Information**

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

**A) State budget:**

This rule change is not expected to have fiscal impact on state government revenues or expenditures. S.B. 205 (2024) necessitated changes to the rule and the Utah State Board of Education (USBE) believes the fiscal impacts were captured in the fiscal note to S.B. 205 (2024).

The rule does not add any fiscal impacts outside the fiscal note for USBE or Local Education Agencies (LEAs) or other entities.

**B) Local governments:**

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. S.B. 205 (2024) necessitated changes to the rule and USBE believes the fiscal impacts were captured in the fiscal note to S.B. 205 (2024). The rule does not add any fiscal impacts outside the fiscal note for USBE or LEAs or other entities.

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

This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. This only impacts USBE and LEAs.

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

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

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

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

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

There are no compliance costs for affected persons. S.B. 205 (2024) necessitated changes to the rule and USBE believes the fiscal impacts were captured in the fiscal note to S.B. 205 (2024). The rule does not add any fiscal impacts outside the fiscal note for USBE or LEAs or other entities.

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

Article X, Section 3	Subsection 53E-3-401(4)	Section 53G-9-207
----------------------	-------------------------	-------------------

**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:** 10/01/2024

**9. This rule change MAY become effective on:** 10/08/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	08/15/2024
---	--	--------------	------------

**R277. Education, Administration.**

**R277-630. Child Sex Abuse and Human Trafficking Prevention Training and Instruction.**

**R277-630-1. Authority and Purpose.**

- (1) This rule is authorized by:
  - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
  - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
  - (c) Section 53G-9-207, which requires the Board to approve, in partnership with the Utah Department of Health and Human Services, age-appropriate instructional materials for the child sex abuse and human trafficking prevention training and instruction.
- (2) The purpose of this rule is to provide the process for a third-party provider of instructional materials for the child sex abuse and human trafficking prevention training and instruction to be approved for use by an LEA.

**R277-630-2. Application Process and Criteria.**

- (1) A third-party provider offering child sex abuse or human trafficking training or instruction shall apply to the Superintendent and be approved by the Board before being utilized by an LEA.
- (2) An LEA may only use instructional materials that have been approved by the Board.
- (3) A third-party provider shall apply according to the form and deadlines established by the Superintendent and include the following within the application submission:
  - (a) a table showing how the materials and trainings align with state law including Sections:
    - (i) 53G-9-207; and
    - (ii) 53G-10-402;
  - (b) an assurance that the materials and trainings are vetted and do not lead to the accessibility of materials or resources that violate Section 53G-10-103 or train school staff, educators, or administrators on topics prohibited by Rule R277-328;
  - (c) a copy of all materials to be used for instruction or training purposes and notation for each regarding the intended audience;
  - (d) a list of evidence-based research that has been used to inform the materials or training; and
  - (e) additional information as requested by the Superintendent.
- (4) The Superintendent, in partnership with the Department of Health and Human Services, shall establish a review committee to determine a potential third-party provider's advancement to the Board for final approval.
- (5) The review committee members shall sign a non-disclosure agreement regarding the materials provided
- (6) The review committee shall use a scoring rubric to assess several key program components including:

NOTICES OF PROPOSED RULES

- (a) training expectations, including:
  - (i) familiarity with state and federal law including Subsection 80-4A-201(1);
  - (ii) specialized instruction that considers cultural differences and needs of specialized populations;
  - (iii) how to adapt instruction to be age appropriate; and
  - (iv) a general understanding of child sex abuse and human trafficking, including human trafficking as a form of abuse;
- (b) required program concepts, including:
  - (i) human trafficking definition aligned with state law;
  - (ii) sex trafficking definition;
  - (iii) labor trafficking definition;
  - (iv) grooming cycle;
  - (v) examples of trafficker conduct or behavior;
  - (vi) risk factors;
  - (vii) populations that are vulnerable to being victims of human trafficking;
  - (viii) concepts showing how human trafficking can happen to any individual; and
  - (ix) concepts surrounding refusal skills consistent with Section 53G-10-402.
- (c) focus areas regarding prevention and reporting of sexual abuse or human trafficking including:
  - (i) how to be safe in various situations;
  - (ii) appropriate use of technology;
  - (iii) appropriate adult behavior;
  - (iv) concepts of self-awareness and trust;
  - (v) disclosure of inappropriate activities;
  - (vi) recognizing warning signs; and
  - (vii) appropriate mechanism, including time and place, for reporting when sexual abuse or human trafficking violations are suspected;

and

- (d) how an individual can create a reporting plan including a method of reporting sex abuse or human trafficking.

(7) A third-party provider that is sent to the Board for final approval shall make all application materials available to the Board for review and Board members shall be bound to keep the materials confidential;

(8) If the Board denies an application for approval, the Board shall notify the third-party provider within 30 days of the Board's determination the reason for the denial.

(9) A third-party provider that has been denied may reapply for approval if the reasons for the denial have been shown by the third-party provider to be remediated.

(10) An approved third-party provider shall reapply for approval of materials or trainings every three years and when updates to the approved materials or trainings are made.

**R277-630-3. Application for Primary Provider for Elementary Student Instructional Materials in Child Sexual Abuse and Human Trafficking Prevention.**

(1) Applicants for primary provider for elementary student instructional materials in child sexual abuse and human trafficking prevention shall apply according to the form and deadlines established by the Superintendent and include the following within the application submission:

- (a) the applicant's Board approved instructional materials in both child sexual abuse and human trafficking prevention;
- (b) demonstration of engagement in outreach efforts to support elementary schools to participate in the training and instruction of their materials;
- (c) all materials for instruction involving students in elementary schools;
- (d) assurance that the applicant's materials and training comply with state law;
- (e) demonstration of experience and expertise in providing instruction with age-appropriate materials to elementary students regarding Child Sexual Abuse and Human Trafficking prevention; and
- (f) assurance that the applicant's materials are accessible to elementary students, including students with a disability.

(2) Once awarded, the primary provider shall:

- (a) comply with reporting requirements as required by the Superintendent; and
- (b) make efforts to annually increase the number of elementary schools that are provided with the training or materials.

**R277-630-4. Process to Become an Alternative Provider.**

(1) An LEA or third-party organization applying to become an alternative provider shall use the process designated by the Superintendent and shall include the following within the application submission:

- (a) the applicant's Board approved instructional materials;
- (b) the name of the instructional materials to be utilized;
- (c) a process for ensuring fidelity to the instructional materials; and
- (d) the process used to ensure that all staff responsible for instruction are trained:
  - (i) in the specific curriculum being presented; and
  - (ii) in reporting child abuse and neglect as defined in Section 76-5-109.

(2) An LEA or third-party organization applying to become an alternative provider may not be the same as the primary provider.



- (3) An LEA or third-party organization applying to become an alternative provider may be an LEA who utilizes staff to provide the training.
- (4) The approval for alternative provider status is valid for three years.
- (5) An LEA or third-party organization renewing alternative provider status after three years shall provide in the application:
  - (a) all the requirements listed in Subsection (2); and
  - (b) a written favorable recommendation from an LEA administrator.

**R277-630-5. Grant Process for LEAs that Choose to Use an Alternative Provider to Provide Elementary Instruction for Child Sexual Abuse and Human Trafficking Prevention.**

- (1) An LEA may apply for a grant to use an alternative provider to provide elementary instruction for child sexual abuse and human trafficking prevention by submitting a proposal on a form approved by the Superintendent.
- (2) A proposal submitted in accordance with Subsection (1) shall:
  - (a) provide the name of the approved alternative provider that the LEA is utilizing;
  - (b) state whether the alternative provider is employed within the LEA or at a third-party organization; and
  - (c) provide the amount of funds being requested and a plan for how the funds will be used in compliance with Section 53G-9-207.
- (3) The Superintendent shall grant awards to qualifying applicants on a first-come, first-served basis.
- (4) Grant awardees shall comply with reporting and evaluation requirements established by the Superintendent.

**KEY: child sex abuse, human trafficking, prevention**  
**Date of Last Change: 2024[December 22, 2022]**  
**Authorizing and Implemented[ed] or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53G-9-207**

NOTICE OF SUBSTANTIVE CHANGE		
<b>TYPE OF FILING:</b> Amendment		
<b>Rule or Section Number:</b>	R277-925	<b>Filing ID: 56733</b>

**Agency Information**

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

**General Information**

<b>2. Rule or section catchline:</b>
R277-925. Effective Teachers in High Poverty Schools Incentive Program
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being amended due to the passage of S.B. 64 during the 2024 General Session.
<b>4. Summary of the new rule or change:</b>
The amendments to Rule R277-925 specifically add an oversight category, provide a date on which the Superintendent will provide notice to each teacher who the Superintendent estimates achieved the eligibility criteria to qualify for a bonus, as required in Section 53F-2-513, and eliminates outdated language that applied to bonuses awarded during the 2022-23 school year, which is no longer needed.

**Fiscal Information**

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

**A) State budget:**

This rule change is not expected to have fiscal impact on state government revenues or expenditures. S.B. 64 (2024) necessitated changes to the rule and the Utah State Board of Education (USBE) believes the fiscal impacts were captured in the fiscal note to S.B. 64 (2024).

The rule does not add any fiscal impacts outside the fiscal note for USBE or Local Education Agencies (LEAs) or other entities.

**B) Local governments:**

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. S.B. 64 (2024) necessitated changes to the rule and USBE believes the fiscal impacts were captured in the fiscal note to S.B. 64 (2024).

The rule does not add any fiscal impacts outside the fiscal note for USBE or LEAs or other entities.

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

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

This only affects USBE and LEAs.

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

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

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

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

This only affects USBE and LEAs.

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

There are no compliance costs for affected persons. S.B. 64 (2024) necessitated changes to the rule and USBE believes the fiscal impacts were captured in the fiscal note to S.B. 64 (2024).

The rule does not add any fiscal impacts outside the fiscal note for USBE or LEAs or other entities.

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

Article X, Section 3	Subsection 53E-3-401(4)	Section 53F-2-513
----------------------	-------------------------	-------------------

**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:** 10/01/2024

**9. This rule change MAY become effective on:** 10/08/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b> Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b> 08/15/2024
--	-------------------------

**R277. Education, Administration.**

**R277-925. Effective Teachers in High Poverty Schools Incentive Program.**

**R277-925-1. Authority, ~~and~~ Purpose, and Oversight Category.**

- (1) This rule is authorized by:
  - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
  - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
  - (c) Subsection 53F-2-513(2)(b), which requires the Board to make rules for the administration of the Effective Teachers in High Poverty Schools Incentive Program.
- (2) The purpose of this rule is to:
  - ~~(a) provide standards and procedures for the administration of the Effective Teachers in High Poverty Schools Incentive Program;~~
  - ~~and~~
  - ~~(b) establish a method for determining teacher eligibility for salary bonuses awarded in the 2022-2023 school year for teachers in grade 4 as required in Subsection 53F-2-513(2)(b)(iv).~~
- (3) This Rule R277-925 is categorized as Category 2 as described in Rule R277-111.

**R277-925-2. Definitions.**

- (1) "Benchmark assessment" means the same as that term is defined in Section 53F-2-513.
- (2) "Eligible teacher" means:
  - (a) the same as that term is defined in Section 53F-2-513; and
  - (b) a teacher who is a regular or special education classroom teacher.
- (3) "High poverty school" means the same as that term is defined in Section 53F-2-513.
- (4) "Local education agency" or "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.
- (5) "Median growth percentile" or "MGP" means the same as that term is defined in Section 53F-2-513.
- (6) "Program" means the Effective Teachers in High Poverty Schools Incentive Program.

NOTICES OF PROPOSED RULES

- (7) "Standards assessment" means the assessment described in Section 53E-4-303.
- (8) "State-assessed ~~subject~~course" means a course in English language arts, mathematics, or science.

**R277-925-3. Administration of the Program.**

- (1) On or before December 1, the Superintendent shall:
  - (a) identify high poverty schools and eligible teachers in accordance with Subsection (2);
  - (b) distribute a list of eligible teachers to LEAs; and
  - (c) inform LEAs of:
    - ~~(i) program requirements and the timeline for applying on behalf of an eligible teacher[-]; and~~
    - (ii) the date on which the Superintendent will provide notice to each teacher who the Superintendent estimates achieved the eligibility criteria to qualify for a bonus, as required in Subsection 53F-2-513(5)(d).
- (2) The Superintendent shall identify:
  - (a) high poverty schools based on the proportion of students who:
    - (i) qualify for free or reduced lunch in the current school year, based on:
      - (A) the most recent end of school year enrollment headcounts for existing schools; or
      - (B) the October 1 enrollment headcounts for new schools; and
    - (ii) are classified as children affected by intergenerational poverty, as determined by the Utah Department of Workforce Services, for the most recent year data is available; and
  - (b) eligible teachers by determining:
    - (i) whether the teacher's MGP was greater than or equal to 70:
      - (A) for at least one state-assessed ~~subject~~course taught by the teacher;
      - (B) as measured by student performance on a standards assessment restricted to those students who were taught by the teacher for a full academic year;
    - (C) two years before the current school year; and
    - (D) excluding ~~subjects~~courses or teachers ~~[with less than ten tested students]who failed to meet accountability eligibility as described in Rule R277-497; or~~
      - (ii) for a teacher in kindergarten or grade 1, 2, or 3, whether at least 85% of the teacher's students assess as typical or better on an end of year benchmark assessment.
- (3) An eligible teacher who is part-time in a regular or special education classroom assignment in the current year shall receive a partial salary bonus based on the number of hours worked in the classroom assignment.
- (4) To receive matching funds for the program, on or before January 15, an LEA shall:
  - (a) apply on behalf of an eligible teacher; and
  - (b) provide assurances that the LEA will pay half of the:
    - (i) teacher salary bonus; and
    - (ii) employer-paid benefits described in Section 53F-2-513.
- (5)(a) Subject to legislative appropriations, on or before June 1, the Superintendent shall:
  - (i) ensure that a teacher who was determined eligible under Subsections (1) and (2) taught at a high poverty school for the full school year; and
    - (ii) distribute to an LEA that meets the criteria described in Subsection (4) half of the:
      - (A) teacher salary bonus; and
      - (B) employer-paid benefits described in Section 53F-2-513.
    - (b) Consistent with Section 53F-2-513, the Superintendent may distribute the funds on a pro rata basis if the number of eligible applicants exceeds the amount of available funds.
  - (6)(a) An LEA or an eligible teacher may appeal eligibility to the Superintendent on the basis that the teacher:
    - (i) is teaching at a high poverty school;
    - (ii) is an eligible teacher; or
    - (iii) has less than ten tested students, but can demonstrate extenuating circumstances that merit an exception.
  - (b) An LEA or eligible teacher shall provide documentation to the Superintendent to assist the Superintendent in deciding on the appeal.
    - ~~\_\_\_\_\_ (7) For purposes of determining whether a teacher who teaches grade 4 is eligible for a salary bonus in the 2022-2023 school year, a teacher is eligible if at least 85% of the teacher's students' progress is assessed as typical or better based on the beginning of year to end of year benchmark assessment for 2020-2021 school year.~~
    - ~~\_\_\_\_\_ (8) An LEA that intends to apply on behalf of an eligible teacher who teaches grade 4 for a salary bonus for the 2022-2023 school year, shall provide the Superintendent grade 4 benchmark assessment data necessary to determine whether the LEA's grade 4 teachers meet the criteria described in Subsection (7).]~~

**KEY: teachers, poverty schools, incentives, student growth**

**Date of Last Change: [February 7,] 2024**

**Notice of Continuation: November 5, 2021**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-2-513**

**NOTICE OF SUBSTANTIVE CHANGE**

**TYPE OF FILING:** New

**Rule or Section Number:**

**R277-933**

**Filing ID: 56735**

**Agency Information**

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

**General Information**

<b>2. Rule or section catchline:</b>
R277-933. Teaching Self-Government Skills for Success, Classroom Communication, and Discipline Framework Pilot Program
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being created due to the passage of S.B. 159 (now Section 53G-7-1307) in the 2024 General Session.
<b>4. Summary of the new rule or change:</b>
This new rule establishes the requirements for the Utah State Board of Education (USBE) to create a course on teaching self-government skills for success.  This new rule provides the definition of "Self-Government Skills for Success" and the reporting requirements for participating LEAs.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This new rule is not expected to have fiscal impact on state government revenues or expenditures. S.B. 159 (2024) necessitated changes to the rule and the Utah State Board of Education (USBE) believes the fiscal impacts were captured in the fiscal note to S.B. 159 (2024).  The rule does not add any fiscal impacts outside the fiscal note for USBE or Local Education Agencies (LEAs) or other entities.
<b>B) Local governments:</b>
This new rule is not expected to have fiscal impact on local governments' revenues or expenditures. S.B. 159 (2024) necessitated changes to the rule and USBE believes the fiscal impacts were captured in the fiscal note to S.B. 159 (2024). The rule does not add any fiscal impacts outside the fiscal note for USBE or LEAs or other entities.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
This new rule is not expected to have fiscal impact on small businesses' revenues or expenditures. This only affects USBE and LEAs.

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

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

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

This new rule is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. This only affects USBE and LEAs.

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

There are no compliance costs for affected persons. S.B. 159 (2024) necessitated changes to the rule and USBE believes the fiscal impacts were captured in the fiscal note to S.B. 159 (2024).

The rule does not add any fiscal impacts outside the fiscal note for USBE or LEAs or other entities.

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

Regulatory Impact Table			
Fiscal Cost	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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this 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:**

Article X, Section 3	Section 53E-3-401	Section 53G-7-1307
----------------------	-------------------	--------------------

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	10/01/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	10/08/2024
---	------------

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	08/15/2024
---	--	--------------	------------

**R277. Education, Administration.**

**R277-933. Teaching Self-Government Skills for Success, Classroom Communication, and Discipline Framework Pilot Program.**

**R277-933-1. Authority, Purpose, and Oversight Category.**

- (1) This rule is authorized by:
  - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
  - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
  - (c) Section 53G-7-1307, which requires the Board to create a course on teaching self-government skills for success.
- (2) The purpose of this rule is to provide the process for developing a course on teaching self-government skills for success.
- (3) This Rule R277-933 is categorized as Category 2 as described in Rule R277-111.

**R277-933-2. Definitions.**

"Teaching self-government skills for success, classroom communication, and discipline framework pilot program" or "pilot program" means the pilot program as described in Section 53G-7-1307.

**R277-933-3. Pilot Program Procedures.**

- (1) A participating LEA shall:
  - (a) gather data to measure the pilot program's impact, including pre- and post participation data regarding:
    - (i) the number of student truanancies and absences;
    - (ii) tools the LEA used to help with classroom management;
    - (iii) student referrals for discipline;
    - (iv) incidents of student discipline, including bullying incidents; and
    - (v) an educator evaluation of the effectiveness of the program measured on a Likert scale; and
  - (b) provide teacher stipends through the Teacher Student Success Program consistent with provisions in Sections 53G-7-1304 and 53G-7-1307.

**KEY: self government, pilot program**

**Date of Last Change: 2024**

**Authorizing, and Implemented or Interpreted Law: Article X, Section 3; 53E-3-401; 53G-7-1307**

**NOTICE OF SUBSTANTIVE CHANGE**

<b>TYPE OF FILING:</b> Amendment	
<b>Rule or Section Number:</b> R307-101	<b>Filing ID:</b> 56702

**Agency Information**

<b>1. Title catchline:</b>	Environmental Quality, Air Quality	
<b>Building:</b>	Multi-Agency State Office Building	
<b>Street address:</b>	195 N 1950 W	
<b>City, state:</b>	Salt Lake City, UT	
<b>Mailing address:</b>	PO BOX 144820	
<b>City, state and zip:</b>	Salt Lake City, UT, 84114-4820	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Erica Pryor	385-499-3416	epryor1@utah.gov
Becky Close	801-536-4013	bclose@utah.gov

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

**General Information**

**2. Rule or section catchline:**

R307-101. General Requirements

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

There are several reasons why the Division of Air Quality (DAQ) is filing these amendments.

First, Section R307-101-3. Version of Code of Federal Regulations Incorporated by Reference, must reflect changes to the federal air quality regulations as published in Title 40 of the Code of Federal Regulations (40 CFR). The rule has been amended to identify the most recent version of 40 CFR, July 1, 2024, as the version that is incorporated throughout the Utah Air Quality Rules.

Second, the DAQ needed to update attainment area definitions.

Finally, the DAQ is filing this amendment to meet the requirements of EO 2021-12 requiring all departments to align the rules with the Rulewriting Manual for Utah standards.

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

This filing amends Rule R307-101 to update definitions, update the CFR incorporations by reference date, and complies with EO 2021-12.

**Public Hearing:**

Will be held on 09/23/2024 at 11:30am-12:30pm.

In Person at:  
MASOB, First Floor, Air Quality Board Room 1015, 195 N 1950 W, , Salt Lake City, UT

Virtual:  
Time zone: America/Denver

Google Meet joining info:  
Video call link: <https://meet.google.com/tbk-jpmf-omm>  
Or dial: (US) +1 774-255-3344 PIN: 797 809 665#

More phone numbers: <https://tel.meet/tbk-jpmf-omm?pin=7153943430951>

In accordance with Section 63G-3-302, please note that if no requests for a public hearing for Rule R307-101 are received by 2:00pm on 09/19/2024, then DAQ will cancel this hearing.

To determine if the hearing has been cancelled and/or view the cancellation notice, you can visit:  
<https://deq.utah.gov/air-quality/air-quality-rule-plan-changes-open-public-comment>

**Fiscal Information**

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

**A) State budget:**

There are no anticipated costs or savings to the state budget as there is no fiscal component related to the amendments. The amendments relate to federal requirements that are already in place.

**B) Local governments:**

There are no anticipated costs or savings for local governments as there is no fiscal component related to the amendments. The amendments relate to federal requirements that are already in place.



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

There are no anticipated costs or savings to small businesses as there is no fiscal component related to the amendments. The amendments relate to federal requirements that are already in place.

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

There are no anticipated costs or savings to non-small businesses as there is no fiscal component related to the amendments. The amendments relate to federal requirements that are already in place.

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

There are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities as there is no fiscal component related to the amendments. The amendments relate to federal requirements that are already in place.

**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 as there is no fiscal component related to the amendments. The amendments relate to federal requirements that are already in place.

**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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Executive Director of the Department of Environmental Quality, Kim D. Shelley, has reviewed and approved this regulatory impact analysis.

**Citation Information**

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

Section 19-2-104	U.S.C. Title 42 Chapter 85 Subchapter I Part A Section 7410 (a)(1)2(A)
------------------	--

**Incorporations by Reference Information**

<b>7. Incorporations by Reference:</b>	
<b>A) This rule adds or updates the following title of materials incorporated by references:</b>	
<b>Official Title of Materials Incorporated (from title page)</b>	Code of Federal Regulations (CFR)
<b>Publisher</b>	The Office of the Federal Register (OFR) of the National Archives and Records Administration (NARA), and the U.S. Government Publishing Office (GPO)
<b>Issue Date</b>	July 1, 2024

**Public Notice Information**

<b>8. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)		
<b>A) Comments will be accepted until:</b>	10/01/2024	
<b>B) A public hearing (optional) will be held:</b>		
<b>Date:</b>	<b>Time:</b>	<b>Place</b> (physical address or URL):
09/23/2024	11:30 AM	See information in Box 4 above.

<b>9. This rule change MAY become effective on:</b>	10/08/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Bryce C. Bird, Director, Division of Air Quality	<b>Date:</b>	08/07/2024
---	--	--------------	------------

**R307. Environmental Quality, Air Quality.**

**R307-101. General Requirements.**

**R307-101-1. Foreword.**

Chapter 19-2 and the rules adopted by the Air Quality Board constitute the basis for control of air pollution sources in the state. ~~These rules~~ Title R307 appl[ies] and ~~will~~ shall be enforced throughout the state~~[-]~~ and are recommended for adoption in local jurisdictions where environmental specialists are available to cooperate in implementing rule requirements.

National Ambient Air Quality Standards (NAAQS), National Standards of Performance for New Stationary Sources (NSPS), National Prevention of Significant Deterioration of Air Quality (PSD) standards, and the National Emission Standards for Hazardous Air Pollutants (NESHAPS) apply throughout the nation and are legally enforceable in Utah.

**R307-101-2. Definitions.**

Except where specified in individual rules, definitions in Section R307-101-2 are applicable to ~~all~~ any rules adopted by the Air Quality Board.

"Actual Emissions" means the actual rate of emissions of a pollutant from an emissions unit determined as follows:

(1) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operations. The director shall allow the use of a different ~~time~~ period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected ~~time~~ period.

(2) The director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(3) For any emission unit, other than an electric utility steam generating unit specified in Subsection (4), which has not begun normal operations on the ~~particular~~ date, actual emissions shall equal the potential to emit of the unit on that date.

(4) For an electric utility steam generating unit, ~~[c]~~ other than a new unit or the replacement of an existing unit, ~~[c]~~ actual emissions of the unit following the physical or operational change shall equal the representative actual annual emissions of the unit, provided the source owner or operator maintains and submits to the director, on an annual basis for a period of ~~[5]~~ five years from the date the unit resumes regular operation, information demonstrating that the physical or operational change did not result in an emissions increase. A longer period, not to exceed ~~[10]~~ ten years, may be required by the director if the director determines ~~[such]~~ a period to be more representative of normal source post-change operations.

"Acute Hazardous Air Pollutant" means any noncarcinogenic hazardous air pollutant for which a threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists (ACGIH) in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, (2009)."

"Air pollutant" means a substance that qualifies as an air pollutant as defined in 42 U.S.C. Sec. 7602.

"Air Pollutant Source" means private and public sources of emissions of air pollutants.

"Air Pollution" means the presence of an air pollutant in the ambient air in ~~[such]~~ quantities and duration and under conditions and circumstances, that are injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or use of property as determined by the standards, rules ~~[and regulations]~~ adopted by the Air Quality Board, ~~[§] Section 19-2-104[§]~~.

"Allowable Emissions" means the emission rate of a source calculated using the maximum rated capacity of the source, ~~[unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both]~~, and the emission limitation established pursuant to Section R307-401-8.

"Ambient Air" means that portion of the atmosphere, external to buildings, to which the general public has access. ~~[§] See [Section] Subsection 19-2-102(4)[§]~~.

"Appropriate Authority" means the governing body of any city, town, or county.

"Atmosphere" means the air that envelops or surrounds the earth and includes ~~[a]~~ any space outside of buildings, stacks, or exterior ducts.

"Authorized Local Authority" means: ~~[a city, county, city-county or district health department; a city, county or combination fire department; or other local agency duly designated by appropriate authority, with approval of the state Department of Health; and other lawfully adopted ordinances, codes or regulations not in conflict therewith.]~~

~~(1) city, county, city-county, or district health department;~~

~~(2) a city, county, or combination fire department;~~

~~(3) other local agency designated by appropriate authority, with approval of the Utah Department of Health and Human Services; or~~

~~(4) other lawfully adopted ordinances, codes, or regulations not in conflict with.~~

"Board" means Air Quality Board. See ~~[Section] Subsection 19-2-102(8)(a)~~.

"Breakdown" means any malfunction or procedural error, to include ~~[but not limited to]~~ any malfunction or procedural error during start-up and shutdown, which will result in the inoperability or sudden loss of performance of the control equipment or process equipment causing emissions in excess of those allowed by approval order or Title R307.

"BTU" means British Thermal Unit, the quantity of heat necessary to raise the temperature of one pound of water one degree Fahrenheit.

"Calibration Drift" means the change in the instrument meter readout over a stated period ~~[of time]~~ of normal continuous operation when the VOC concentration at the time of measurement is the same known upscale value.

"Carbon Adsorption System" means a device containing adsorbent material ~~[e.g.,]~~ including activated carbon, aluminum, silica gel, ~~[],~~ an inlet and outlet for exhaust gases, and a system for the proper disposal or reuse of ~~[a]~~ any VOC adsorbed.

"Carcinogenic Hazardous Air Pollutant" means any hazardous air pollutant that is classified as a known human carcinogen (A1) or suspected human carcinogen (A2) by the American Conference of Governmental Industrial Hygienists (ACGIH) in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, (2009)."

"Chargeable Pollutant" means any regulated air pollutant except the following:

(1) carbon monoxide;

(2) any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated or established by Title VI of the Act, Stratospheric Ozone Protection; or

(3) any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under Section 112(r) of the Act, Prevention of Accidental Releases.

"Chronic Hazardous Air Pollutant" means any noncarcinogenic hazardous air pollutant for which a threshold limit value - time weighted average (TLV-TWA) having no threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists (ACGIH) in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, (2009)."

"Clean Air Act" means federal Clean Air Act as found in 42 U.S.C. Chapter 85.

"Clean Coal Technology" means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

"Clean Coal Technology Demonstration Project" means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology," up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The ~~[F]~~ federal contribution for a qualifying project shall be at least 20% ~~[percent]~~ of the total cost of the demonstration project.

"Clearing Index" means an indicator of the predicted rate of clearance of ground level pollutants from a given area. This number is provided by the National Weather Service.

"Coating" means a material that can be applied to a substrate and which cures to form a continuous solid film for protective, decorative, or functional purposes. ~~[Such m] Materials include[, but are not limited to,]~~ paints, varnishes, sealants, adhesives, caulks, maskants, inks, and temporary protective coatings.

"Commence" as applied to construction of a major source or major modification means that the owner or operator has ~~[a]~~ any necessary pre-construction approvals or permits and either has:

(1) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

## NOTICES OF PROPOSED RULES

(2) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

"Composite vapor pressure" means the sum of the partial pressures of the compounds defined as VOCs.

"Condensable PM<sub>2.5</sub>" means material that is vapor phase at stack conditions, but which condenses ~~and~~ or reacts upon cooling and dilution in the ambient air to form solid or liquid particulate matter immediately after discharge from the stack.

"Compliance Schedule" means a schedule of events, by date, which ~~will~~ shall result in compliance with ~~these regulations~~ this rule.

"Construction" means any physical change or change in the method of operation including fabrication, erection, installation, demolition, or modification of a source which would result in a change in actual emissions.

"Control Apparatus" means any device which prevents or controls the emission of any air pollutant directly or indirectly into the outdoor atmosphere.

"Department" means Utah State Department of Environmental Quality. See ~~Section~~ Subsection 19-1-103(1).

"Director" means the Director of the Division of Air Quality. See ~~Section~~ Subsection 19-1-103(1).

"Division" means the Division of Air Quality.

"Electric Utility Steam Generating Unit" means any steam electric generating unit that is constructed ~~for the purpose of~~ to supply ~~ing~~ more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for ~~the purpose of~~ providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

"Emission" means the act of discharge into the atmosphere of an air pollutant or an effluent which contains or may contain an air pollutant ~~s~~, or the effluent so discharged into the atmosphere.

"Emissions Information" means ~~with reference to~~ any source operation, equipment, or control apparatus:

(1) information necessary to determine the identity, amount, frequency, concentration, or other characteristics related to air quality of any air pollutant which has been emitted by the source operation, equipment, or control apparatus;

(2) information necessary to determine the identity, amount, frequency, concentration, or other characteristics ~~to the extent related to air quality,~~ of any air pollutant which, under an applicable standard or limitation, the source operation was authorized to emit ~~including, to the extent necessary for such purposes, a description of the manner or rate of operation of the source operation,~~ or any combination of the foregoing; and

(3) ~~A~~ a general description of the location ~~and~~ or nature of the source operation to the extent necessary to identify the source operation and to distinguish it from other source operations ~~including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source operation.~~

"Emission Limitation" means a requirement established by the Board, the director or the Administrator, EPA, which limits the quantity, rate or concentration of emission of air pollutants on a continuous emission reduction including any requirement relating to the operation or maintenance of a source to ~~assure~~ ensure continuous emission reduction. ~~See Section 302(k).~~

"Emissions Unit" means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under the Clean Air Act.

"Enforceable" means ~~all~~ any limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within the State Implementation Plan and Title R307, any permit requirements established pursuant to 40 CFR 52.21 or Rule R307-401.

"EPA" means Environmental Protection Agency.

"EPA Method 9" means 40 CFR Part 60, Appendix A, Method 9, "Visual Determination of Opacity of Emissions from Stationary Sources," and Alternate 1, "Determination of the opacity of emissions from stationary sources remotely by LIDAR."

"Executive Director" means the Executive Director of the Utah Department of Environmental Quality. See Subsection 19-1-103(2).

"Existing Installation" means an installation, construction of which began ~~prior to~~ before the effective date of any regulation having application to it.

"Filterable PM<sub>2.5</sub>" means particles with an aerodynamic diameter equal to or less than 2.5 micrometers that are directly emitted by a source as a solid or liquid at stack or release conditions and can be captured on the filter of a stack test train.

"Fireplace" means ~~all~~ any devices both masonry or factory built units, ~~free standing fireplaces~~ with a hearth, fire chamber or similarly prepared device connected to a chimney which provides the operator with little control of combustion air, leaving its fire chamber fully or at least partially open to the room. Fireplaces include those devices with circulating systems, heat exchangers, or draft reducing doors with a net thermal efficiency of no greater than ~~twenty percent~~ 20% and are used for aesthetic purposes.

"Fugitive Dust" means particulate, composed of soil, ~~and/or~~ industrial particulates, or both ~~such as~~ including ash, coal, and minerals ~~etc.~~ which becomes airborne because of wind or mechanical disturbance of surfaces. Natural sources of dust and fugitive emissions are not fugitive dust within the meaning of this definition.

"Fugitive Emissions" means emissions from an installation or facility which are neither passed through an air cleaning device nor vented through a stack or could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"Garbage" means ~~all~~ any putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food, including wastes attendant thereto.

"Gasoline" means any petroleum distillate, used as a fuel for internal combustion engines, having a Reid vapor pressure of ~~4~~ four pounds or greater.

"Hazardous Air Pollutant (HAP)" means any pollutant listed by the EPA as a hazardous air pollutant in conformance with Section 112(b) of the Clean Air Act. A list of these pollutants is available at the Division of Air Quality.

"Household Waste" means any solid or liquid material normally generated by the family in a residence in the course of ordinary day-to-day living, including ~~but not limited to~~ garbage, paper products, rags, leaves, and garden trash.

"Incinerator" means a combustion apparatus designed for high temperature operation in which solid, semisolid, liquid, or gaseous combustible wastes are ignited and burned efficiently and from which the solid and gaseous residues contain little or no combustible material.

"Installation" means a discrete process with identifiable emissions which may be part of a larger industrial plant. Pollution equipment ~~shall~~ may not be considered a separate installation or installations.

"LPG" means liquified petroleum gas ~~such as~~ including propane or butane.

"Maintenance Area" means an area that is subject to the provisions of a maintenance plan that is included in the Utah ~~s~~ State ~~i~~ Implementation ~~p~~ Plan, and that has been redesignated by EPA from nonattainment to attainment of any National Ambient Air Quality Standard.

~~(a) The following areas are considered maintenance areas for ozone:~~

~~(i) Salt Lake County, effective August 18, 1997; and~~

~~(ii) Davis County, effective August 18, 1997.]~~

~~(b)1) [The following areas are] Provo City is considered a maintenance areas for carbon monoxide[.] effective January 3, 2006.~~

~~(i) Salt Lake City, effective March 22, 1999;~~

~~(ii) Ogden City, effective May 8, 2001; and~~

~~(iii) Provo City, effective January 3, 2006.]~~

~~(e)2) The following areas are considered maintenance areas for PM10:~~

~~(i)a) Salt Lake County, effective on the date that EPA approves the maintenance plan that was adopted by the Board on December 2, 2015;~~

~~(ii)b) Utah County, effective on the date that EPA approves the maintenance plan that was adopted by the Board on December 2, 2015; and~~

~~(iii)c) Ogden City, effective on the date that EPA approves the maintenance plan that was adopted by the Board on December 2, 2015.~~

~~(d)3) The following area is considered a maintenance area for sulfur dioxide: [all of] Salt Lake County and the eastern portion of Tooele County above 5,600 feet, effective on the date that EPA approves the maintenance plan that was adopted by the Board on January 5, 2005.~~

~~(e)4) The following areas are considered maintenance areas for PM<sub>2.5</sub>:~~

~~(i)a) the Salt Lake City, Utah 24-hr PM<sub>2.5</sub> nonattainment area, as defined in the July 1, 2019 version of 40 CFR 81.345, effective on the date that EPA redesignates the area to attainment for PM<sub>2.5</sub>;~~

~~(ii)b) the Provo, Utah 24-hr PM<sub>2.5</sub> nonattainment area, as defined in the July 1, 2019 version of 40 CFR 81.345, effective on the date that EPA redesignates the area to attainment for PM<sub>2.5</sub>; and~~

~~(iii)c) the Utah portion of the Logan, Utah-Idaho 24-hr PM<sub>2.5</sub> nonattainment area, as defined in the July 1, 2019 version of 40 CFR 81.345, effective on the date that EPA redesignates the area to attainment for PM<sub>2.5</sub>.~~

"Major Modification" means any physical change in or change in the method of operation of a major source that would result in a significant net emissions increase of any pollutant. A net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone. Within Salt Lake and Davis Counties or any nonattainment area for ozone, a net emissions increase that is significant for nitrogen oxides shall be considered significant for ozone. Within areas of nonattainment for PM10, a significant net emission increase for any PM10 precursor is also a significant net emission increase for PM10. A physical change or change in the method of operation ~~shall~~ may not include:

(1) routine maintenance, repair, and replacement;

(2) use of an alternative fuel or raw material by reason of an order under ~~s~~ Section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(3) use of an alternative fuel by reason of an order or rule under ~~s~~ Section 125 of the federal Clean Air Act;

(4) use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(5) use of an alternative fuel or raw material by a source:

(a) which the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any enforceable permit condition; or

(b) which the source is otherwise approved to use;

(6) an increase in the hours of operation or in the production rate unless ~~such~~ the change would be prohibited under any enforceable permit condition;

(7) any change in ownership at a source;

(8) the addition, replacement, or use of a pollution control project at an existing electric utility steam generating unit, unless the director determines that ~~such~~ the addition, replacement, or use renders the unit less environmentally beneficial, or except:

(a) when the director has reason to believe that the pollution control project would result in a significant net increase in representative actual annual emissions of any criteria pollutant over levels used for that source in the most recent air quality impact analysis in the area conducted for ~~the purpose of~~ Title I of the Clean Air Act, if any~~s~~; and

(b) the director determines that the increase will cause or contribute to a violation of any national ambient air quality standard or PSD increment, or visibility limitation~~s~~;

(9) the installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

(a) the Utah State Implementation Plan; and

(b) other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

NOTICES OF PROPOSED RULES

"Major Source" means, to the extent provided by the federal Clean Air Act as applicable to Title R307:

(1) any stationary source of air pollutants which emits, or has the potential to emit, ~~[one hundred]~~100 tons per year or more of any pollutant subject to regulation under the Clean Air Act; or

(a) any source located in a nonattainment area for carbon monoxide which emits, or has the potential to emit, carbon monoxide in the amounts outlined in Section 187 of the federal Clean Air Act with respect to the severity of the nonattainment area as outlined in Section 187 of the federal Clean Air Act;~~or~~

(b) any source located in Salt Lake or Davis Counties or in a nonattainment area for ozone which emits, or has the potential to emit, VOC or nitrogen oxides in the amounts outlined in Section 182 of the federal Clean Air Act with respect to the severity of the nonattainment area as outlined in Section 182 of the federal Clean Air Act; or

(c) any source located in a nonattainment area for PM10 which emits, or has the potential to emit, PM10 or any PM10 precursor in the amounts outlined in Section 189 of the federal Clean Air Act with respect to the severity of the nonattainment area as outlined in Section 189 of the federal Clean Air Act.

(2) any physical change that would occur at a source not qualifying under ~~[subpart]~~Subsection (1) as a major source, if the change would constitute a major source by itself;

(3) the fugitive emissions and fugitive dust of a stationary source ~~[shall]~~may not be included in determining for any of the purposes of ~~[these]~~Title R307 rules whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

(a) ~~[C]~~coal cleaning plants ~~[with thermal dryers];~~

(b) Kraft pulp mills;

(c) Portland cement plants;

(d) ~~[P]~~primary zinc smelters;

(e) ~~[H]~~iron and steel mills;

(f) ~~[P]~~primary aluminum or reduction plants;

(g) ~~[P]~~primary copper smelters;

(h) ~~[M]~~municipal incinerators capable of charging more than 250 tons of refuse per day;

(i) ~~[H]~~hydrofluoric, sulfuric, or nitric acid plants;

(j) ~~[P]~~petroleum refineries;

(k) ~~[L]~~lime plants;

(l) ~~[P]~~phosphate rock processing plants;

(m) ~~[C]~~coke oven batteries;

(n) ~~[S]~~sulfur recovery plants;

(o) ~~[C]~~carbon black plants ~~or~~ ~~[furnace process];~~

(p) ~~[P]~~primary lead smelters;

(q) ~~[F]~~fuel conversion plants;

(r) ~~[S]~~sintering plants;

(s) ~~[S]~~secondary metal production plants;

(t) ~~[C]~~chemical process plants;

(u) ~~[F]~~fossil-fuel boilers, ~~[or combination thereof];~~ totaling more than 250 million British Thermal Units per hour heat input;

(v) ~~[P]~~petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(w) ~~[F]~~taconite ore processing plants;

(x) ~~[G]~~glass fiber processing plants;

(y) ~~[C]~~charcoal production plants;

(z) ~~[F]~~fossil fuel-fired steam electric plants of more than 250 million British Thermal Units per hour heat input; or

(aa) ~~[A]~~any other stationary source category which, as of August 7, 1980, is being regulated under ~~[s]~~Section 111 or 112 of the federal Clean Air Act.

"Modification" means any planned change in a source which results in a potential increase of emission.

"National Ambient Air Quality Standards (NAAQS)" means the allowable concentrations of air pollutants in the ambient air specified by the ~~[F]~~federal ~~[G]~~government, ~~[see Title 40, Code of Federal Regulations, Part 50];~~

"Net Emissions Increase" means the amount by which the sum of the following exceeds zero:

(1) any increase in actual emissions from a particular physical change or change in method of operation at a source; and

(2) any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable. For purposes of determining a "net emissions increase":

(a) ~~[A]~~an increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date five years before construction on the particular change commences; and the date that the increase from the particular change occurs~~[-];~~

(b) An increase or decrease in actual emissions is creditable only if it has not been relied on in issuing a prior approval for the source which approval is in effect when the increase in actual emissions for the particular change occurs~~[-];~~

(c) An increase or decrease in actual emission of sulfur dioxide, nitrogen oxides or particulate matter which occurs before an applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available~~[-]~~ ~~and~~ ~~[-W]~~with respect to particulate matter, only PM10 ~~[-]~~emissions will be used to evaluate this increase or decrease~~[-];~~

(d) ~~[A]~~an increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(e) ~~[A]~~a decrease in actual emissions is creditable only to the extent that:

(i) ~~[F]~~the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) ~~[H]~~it is enforceable at and after the time that actual construction on the particular change begins;~~and~~

(iii) ~~[I]~~it has ~~[approximately]~~about the same qualitative significance for public health and welfare as that attributed to the increase from the particular change~~[-]; and~~

(iv) ~~[J]~~it has not been relied on in issuing any permit under Rule R307-401 nor has it been relied on in demonstrating attainment or reasonable further progress.

(f) ~~[A]~~an increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant~~[-]~~and ~~[A]~~any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

"New Installation" means an installation, construction of which began after the effective date of any regulation having application to it.

"Nonattainment Area" means an area designated by the Environmental Protection Agency as nonattainment under Section 107, Clean Air Act for any National Ambient Air Quality Standard. The designations for Utah are listed in 40 CFR 81.345.

"Offset" means an amount of emission reduction, by a source, greater than the emission limitation imposed on ~~[such]~~the source by ~~[these regulations]~~this rule, ~~[and/or]~~the State Implementation Plan, or both.

"Opacity" means the capacity to obstruct the transmission of light, expressed as percent.

"Open Burning" means any burning of combustible materials resulting in emission of products of combustion into ambient air without passage through a chimney or stack.

"Owner or Operator" means any person who owns, leases, controls, operates or supervises a facility, an emission source, or air pollution control equipment.

"PSD<sup>[2]</sup> Area" means an area designated as attainment or unclassifiable under ~~[s]~~Section 107(d)(1)(D) or (E) of the federal Clean Air Act.

"PM2.5" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by an EPA reference or equivalent method.

"PM2.5 Precursor" means any chemical compound or substance which, after it has been emitted into the atmosphere, undergoes chemical or physical changes that convert it into particulate matter, specifically PM2.5.

(1) Specifically, Sulfur dioxide, Nitrogen oxides, Volatile organic compounds and Ammonia are precursors to PM2.5 in any PM2.5 nonattainment area, except where the Administrator of the EPA has approved a demonstration satisfying 40 CFR 51.1006(a)(3) which has, for a particular PM2.5 nonattainment area, determined otherwise.

(2) The following subparagraphs denote specific nonattainment areas, ~~[c]~~as defined in the July 1, 2017 version of 40 CFR 81.345~~[y]~~, within which certain pollutants identified in ~~[paragraph]~~Subsection (1) are exempted from the definition of PM2.5 precursor for the purposes of 40 CFR 51.165

(a) In the Logan UT-ID PM2.5 nonattainment area, ~~[--]~~Ammonia is exempted.

"PM10" means particulate matter with an aerodynamic diameter less than or equal to a nominal ~~[40]~~ten micrometers as measured by an EPA reference or equivalent method.

"PM10 Precursor" means any chemical compound or substance which, after it has been emitted into the atmosphere, undergoes chemical or physical changes that convert it into particulate matter, specifically PM10.

"Part 70 Source" means any source subject to the permitting requirements of Rule R307-415.

"Person" means an individual, trust, firm, estate, company, corporation, partnership, association, state, state or federal agency or entity, municipality, commission, or political subdivision of a state. ~~[c]~~See Subsection 19-2-103(4)~~[y]~~.

"Pollution Control Project" means any activity or project at an existing electric utility steam generating unit for purposes of reducing emissions from ~~[such]~~a unit. ~~[Such a]~~Activities or projects are limited to:

(1) the installation of conventional or innovative pollution control technology, including ~~[but not limited to]~~advanced flue gas desulfurization, sorbent injection for sulfur dioxide and nitrogen oxides controls, and electrostatic precipitators;

(2) an activity or project to accommodate switching to a fuel which is less polluting than the fuel used ~~[prior to]~~before the activity or project, including~~[-, but not limited to]~~ natural gas or coal reburning, or the cofiring of natural gas and other fuels for ~~[the purpose of]~~controlling emissions;

(3) a permanent clean coal technology demonstration project conducted under Title II, ~~[see-]~~Section 101(d) of the Further Continuing Appropriations Act of 1985 (sec. 5903(d) of title 42 of the United States Code), or subsequent appropriations, up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency; or

(4) a permanent clean coal technology demonstration project that constitutes a repowering project.

"Potential to Emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

"Primary PM2.5" means the sum of filterable PM2.5 and condensable PM2.5.

"Process Level" means the operation of a source, specific to the kind or type of fuel, input material, or mode of operation.

NOTICES OF PROPOSED RULES

"Process Rate" means the quantity per unit of time of any raw material or process intermediate consumed, or product generated, through the use of any equipment, source operation, or control apparatus. For a stationary internal combustion unit or any other fuel burning equipment, this term may be expressed as the quantity of fuel burned per unit of time.

"Reactivation of a Very Clean Coal-Fired Electric Utility Steam Generating Unit" means any physical change or change in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit:

- (1) has not been in operation for the two-year period ~~[prior to]~~before the enactment of the Clean Air Act Amendments of 1990, and the emissions from ~~[such]the~~ unit continue to be carried in the emission inventory at the time of enactment;
- (2) was equipped ~~[prior to]~~before shutdown with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85% ~~[percent]~~ and a removal efficiency for particulates of no less than 98% ~~[percent]~~;
- (3) is equipped with low-NOx burners ~~[prior to]~~before ~~[the time of commencement of]~~ operations begin following reactivation; and
- (4) is otherwise in compliance with the requirements of the Clean Air Act.

"Reasonable Further Progress" means annual incremental reductions in emission of an air pollutant which are sufficient to provide for attainment of the NAAQS by the date identified in the State Implementation Plan.

"Refuse" means solid wastes, such as garbage and trash.

"Regulated air pollutant" means any of the following:

- (a) nitrogen oxides or any volatile organic compound;
- (b) any pollutant for which a national ambient air quality standard has been promulgated;
- (c) any pollutant that is subject to any standard promulgated under Section 111 of the Act, Standards of Performance for New Stationary Sources;
- (d) any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act, Stratospheric Ozone Protection; or
- (e) any pollutant subject to a standard promulgated under Section 112, Hazardous Air Pollutants, or other requirements established under Section 112 of the Act, including Sections 112(g), (j), and (r) of the Act, including any of the following:

(i) Any pollutant subject to requirements under Section 112(j) of the Act, Equivalent Emission Limitation by Permit. If the Administrator fails to promulgate a standard by the date established pursuant to Section 112(e) of the Act, any pollutant for which a subject source would be major shall be ~~[considered to be]~~ regulated on the date 18 months after the applicable date established pursuant to Section 112(e) of the Act;

(ii) Any pollutant for which the requirements of Section 112(g)(2) of the Act, ~~[C]~~Construction, Reconstruction and Modification, ~~[s]~~ have been met, but only with respect to the individual source subject to Section 112(g)(2) requirement.

"Repowering" means replacement of an existing coal-fired boiler with one of the following clean coal technologies: ~~[atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.]~~

- ~~(a) atmospheric or pressurized fluidized bed combustion;~~
- ~~(b) integrated gasification combined cycle;~~
- ~~(c) magnetohydrodynamics;~~
- ~~(d) direct and indirect coal-fired turbines;~~
- ~~(e) integrated gasification fuel cells; or~~
- ~~(f) as determined by the Administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.~~

(1) Repowering shall also include any oil ~~[and]~~ or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.

(2) The director shall give expedited consideration to permit applications for any source that satisfies the requirements of this definition and is granted an extension under ~~[s]~~Section 409 of the Clean Air Act.

"Representative Actual Annual Emissions" means the average rate, in tons per year, at which the source is projected to emit a pollutant for the two-year period after a physical change or change in the method of operation of unit, ~~[C]~~or a different consecutive two-year period within ~~[+0]~~ten years after that change, where the director determines that ~~[such]the~~ period is more representative of source operations~~[s]~~, considering the effect any ~~[such]~~change will have on increasing or decreasing the hourly emissions rate and on projected capacity utilization. In projecting future emissions, the director shall:

- (1) ~~[C]~~consider ~~[a]~~any relevant information, including ~~[but not limited to,]~~historical operational data, the company's own representations, filings with the State or Federal regulatory authorities, and compliance plans under title IV of the Clean Air Act; and
- (2) ~~[E]~~exclude, in calculating any increase in emissions that results from the particular physical change or change in the method of operation at an electric utility steam generating unit, that portion of the unit's emissions following the change that could have been accommodated during the representative baseline period and is attributable to an increase in projected capacity utilization at the unit that is unrelated to the particular change, including any increased utilization due to the rate of electricity demand growth for the utility system as a whole.

"Residence" means a dwelling in which people live, including all ancillary buildings.



"Residential Solid Fuel Burning" device means any residential burning device except a fireplace connected to a chimney that burns solid fuel and is capable of, and intended for use as a space heater, domestic water heater, or indoor cooking appliance, and has an air-to-fuel ratio less than 35-to-1 as determined by the test procedures prescribed in 40 CFR 60.534. It ~~must~~ shall also have a useable firebox volume of less than 6.10 cubic meters or 20 cubic feet, a minimum burn rate less than 5 kilograms per hour or 11 pounds per hour as determined by test procedures prescribed in 40 CFR 60.534, and weigh less than 800 kilograms or 362.9 pounds. Appliances that are described as prefabricated fireplaces and are designed to accommodate doors or other accessories that would create the air starved operating conditions of a residential solid fuel burning device shall be considered as such. Fireplaces are not included in this definition for solid fuel burning devices.

"Road" means any public or private road.

"Salvage Operation" means any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, including ~~but not limited to~~ metals, chemicals, shipping containers, or drums.

"Secondary Emissions" means emissions which would occur as a result of the construction or operation of a major source or major modification, but do not come from the major source or major modification itself.

Secondary emissions ~~must~~ shall be specific, well defined, quantifiable, and impact the same general area as the source or modification which causes the secondary emissions. Secondary emissions include emissions from any off-site support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source ~~such as~~ including emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

Fugitive emissions and fugitive dust from the source or modification are not considered secondary emissions.

"Secondary PM2.5" means particles that form or grow in mass through chemical reactions in the ambient air well after dilution and condensation have occurred. Secondary PM2.5 is usually formed at some distance downwind from the source.

"Significant" means:

(1) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Carbon monoxide: 100 ton per year (tpy);

Nitrogen oxides: 40 tpy;

Sulfur dioxide: 40 tpy;

PM10: 15 tpy;

PM2.5: 10 tpy;

Particulate matter: 25 tpy;

Ozone: 40 tpy of volatile organic compounds; or

Lead: 0.6 tpy.

"Solid Fuel" means wood, coal, and other similar organic material or combination of these materials.

"Solvent" means organic materials which are liquid at standard conditions, ~~[Standard Temperature and Pressure,]~~ and which are used as solvers, viscosity reducers, or cleaning agents.

"Source" means any structure, building, facility, or installation which emits or may emit any air pollutant subject to regulation under the Clean Air Act and which is located on one or more continuous or adjacent properties and which is under the control of the same person ~~or persons~~ under common control. A building, structure, facility, or installation means ~~all~~ any of the pollutant-emitting activities which belong to the same industrial grouping. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" ~~[i.e.]~~ which have the same two-digit code ~~]~~ as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement, ~~[US Government Printing Office stock numbers 4101-0065 and 003-005-00176-0, respectively]~~.

"Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

"Standards of Performance for New Stationary Sources" means the ~~F~~ federally established requirements for performance and record keeping, ~~[Title 40 Code of Federal Regulations, Part 60]~~.

~~"State" means Utah State.~~

"Temporary" means not more than 180 calendar days.

"Temporary Clean Coal Technology Demonstration Project" means a clean coal technology demonstration project that is operated for a period of ~~5~~ five years or less, and which complies with the Utah State Implementation Plan and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

"Threshold Limit Value - Ceiling (TLV-C)" means the airborne concentration of a substance which may not be exceeded, as adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, (2009)."

"Threshold Limit Value - Time Weighted Average (TLV-TWA)" means the time-weighted airborne concentration of a substance adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, (2009)."

"Total Suspended Particulate (TSP)" means minute separate particles of matter, collected by high volume sampler.

"Toxic Screening Level" means an ambient concentration of an air pollutant equal to a threshold limit value - ceiling (TLV- C) or threshold limit value -time weighted average (TLV-TWA) divided by a safety factor.

"Trash" means solids not considered to be highly flammable or explosive including ~~but not limited to~~ clothing, rags, leather, plastic, rubber, floor coverings, excelsior, tree leaves, yard trimmings, and other similar materials.

"VOC content" means the weight of VOC per volume of material and is calculated by the following equation in gram/liter, ~~or alternately in~~ in pound/gallon, or pound/pound ~~]~~:

NOTICES OF PROPOSED RULES

Grams of VOC per Liter of Material =  $Ws - Ww - Wes / Vm$

Where:

Ws = weight of volatile organic compounds

Ww = weight of water

Wes = weight of exempt compounds

Vm = volume of material

"Volatile Organic Compound (VOC)" means VOC as defined in 40 CFR 51.100(s), effective as of the date referenced in Section R307-101-3, is ~~hereby adopted and~~ incorporated by reference.

"Waste" means ~~all~~ any solid, liquid or gaseous material, including ~~-, but not limited to,~~ garbage, trash, household refuse, construction or demolition debris, or other refuse including that resulting from the prosecution of any business, trade or industry.

"Zero Drift" means the change in the instrument meter readout over a stated period ~~[of time]~~ of normal continuous operation when the VOC concentration at the time of measurement is zero.

**R307-101-3. Version of Code of Federal Regulations Incorporated by Reference.**

Except as specifically identified in an individual rule, the version of the Code of Federal Regulations (CFR) incorporated throughout Title R307 is dated July 1, 202~~0~~<sup>4</sup>.

**KEY: air pollution, definitions**

Date of Last Change: ~~2024~~<sup>2024</sup>~~May 6, 2024~~

Notice of Continuation: November 1, 2023

Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R356-6	Filing ID: 56692

**Agency Information**

<b>1. Title catchline:</b>	Governor, Criminal and Juvenile Justice (State Commission on)	
<b>Building:</b>	Utah State Capitol, Senate Building	
<b>Street address:</b>	350 N. State Street	
<b>City, state</b>	Salt Lake City, UT	
<b>Mailing address:</b>	PO Box 142330	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-2330	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angelo Perillo	801-538-1047	aperillo@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R356-6. Electronic Meetings
<b>3. Purpose of the new rule or reason for the change:</b>
The purpose of this amendment to the Commission's Electronic Meetings Rule is ensure that the rule complies with the changes to the Open and Public Meetings Act made by H.B. 36 in the 2024 General Session.
<b>4. Summary of the new rule or change:</b>
This amendment to the Commission's Electronic Meetings Rule clarifies that a public body must have an anchor location for a public meeting only if required by Section 52-4-207.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
--

<b>A) State budget:</b>			
This rule amendment will not result in any cost or savings to the state budget because it only modifies the procedures that the public bodies under the Commission must follow when conducting open and public meetings.			
<b>B) Local governments:</b>			
This rule amendment will not result in any cost or savings to local governments because it only modifies the procedures that the public bodies under the Commission must follow when conducting open and public meetings.			
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):			
This rule amendment will not result in any cost or savings to small businesses because it only modifies the procedures that the public bodies under the Commission must follow when conducting open and public meetings.			
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):			
This rule amendment will not result in any cost or savings to non-small businesses because it only modifies the procedures that the public bodies under the Commission must follow when conducting open and public meetings.			
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):			
This rule amendment will not result in any cost or savings to persons other than small businesses, non-small businesses, state, or local government entities because it only modifies the procedures that the public bodies under the Commission must follow when conducting open and public meetings.			
<b>F) Compliance costs for affected persons</b> (How much will it cost an impacted entity to adhere to this rule or its changes?):			
This rule amendment will not result in any compliance costs for any affected persons because it only modifies the procedures that the public bodies under the Commission must follow when conducting open and public meetings.			
<b>G) Regulatory Impact Summary Table</b> (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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Executive Director of the Commission on Criminal and Juvenile Justice, Tom Ross, has reviewed and approved this regulatory impact analysis.			

This rule will have no fiscal impact on any entities.

**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 52-4-207		
------------------	--	--

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	10/01/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	10/08/2024
---	------------

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tom Ross, Executive Director	<b>Date:</b>	07/10/2024
---	------------------------------	--------------	------------

**R356. Governor, Criminal and Juvenile Justice (State Commission on).**

**R356-6. Electronic Meetings.**

**R356-6-1. Authority.**

This rule is authorized by Section 52-4-207 which requires a public body which holds an electronic meeting to adopt a resolution, rule, or ordinance governing the use of electronic meetings.

**R356-6-2. Purpose.**

The purpose of this rule is to establish procedures for conducting an electronic meeting of any public body established in:

- (1) Section 36-29-111;
- (2) Title 63M, Chapter 7, Criminal Justice and Substance Abuse;
- (3) Section 64-13e-105;

~~[(4) Section 77-37-5;~~  
~~[(5) Section 78A-10a-302;~~  
~~[(6) Section 78A-10a-402;]~~ and  
~~[(7)](4) Section 78B-22-401.~~

**R356-6-3. Definitions.**

- (1) Terms used in this rule are found in Section 52-4-103.
- (2) In addition:

~~[(a) "commission" means the Commission on Criminal and Juvenile Justice, established in Section 63M-7-201;~~

~~[(b)](a) "designee" means an individual appointed by a member to represent the member when the member cannot appear at meetings of a public body;~~

~~[(c)](b) "electronically" means to attend a meeting through the use of:~~

- (i) an online medium that allows for audio and video interactions; or
- (ii) a telecommunications medium that allows for audio interactions; and

~~[(d)](c) "representative" means an individual appointed by an entity to represent that entity on a public body.~~

**R356-6-4. Procedures.**

(1) A public body described in this rule may hold an open and public meeting where individuals may participate electronically.

(2) When an electronic meeting is scheduled, the public notice required by Section 52-4-202 shall describe:

(a) how individuals may participate electronically; and

(b) the anchor location where individuals may attend, monitor, and participate in the open portions of the meeting, if an anchor location is required by Section 52-4-207.

(3) ~~[The]~~An anchor location shall have sufficient space and facilities so anyone may attend, monitor, and participate in the open portions of the meeting.

(4) At the commencement of the meeting the chair shall identify on the record the members, designees, and representatives who are appearing electronically.

(5) A member, designee, or representative who appears electronically shall be counted as present for purposes of determining a quorum.

(6)(a) A member, designee, or representative who appears electronically may fully participate and vote on any matter before the public body.

(b) Votes by members, designees, or representatives who are appearing electronically shall be confirmed by the chair.

**KEY: electronic meetings, procedures**

**Date of Last Change:** ~~January 25,~~ 2024

**Authorizing, and Implemented or Interpreted Law:** 52-4-207

### NOTICE OF SUBSTANTIVE CHANGE

**TYPE OF FILING:** New

**Rule or Section Number:**

**R382-11**

**Filing ID: 56709**

#### Agency Information

<b>1. Title catchline:</b>	Health and Human Services, Children's Health Insurance Program	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state:</b>	Salt Lake City, UT	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

#### General Information

<b>2. Rule or section catchline:</b>
R382-11. State Children's Health Insurance Program
<b>3. Purpose of the new rule or reason for the change:</b>
In accordance with S.B. 217 of the 2023 General Session, the purpose of this rule is to establish eligibility requirements for enrollment and benefits under the State Children's Health Insurance Program (State CHIP) program.
<b>4. Summary of the new rule or change:</b>
This rule establishes eligibility requirements to qualify for State CHIP and specifies benefits for eligible members.

#### Fiscal Information

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
As seen in the fiscal note for S.B. 217 (2023), the Division of Integrated Health Care (Division) is expected to see a fiscal benefit of \$3,925,500 for FY25 and \$4,348,700 for FY26.
The Division will also see a fiscal benefit in FY27, but this amount is inestimable at this time, as it will be based on data from FY25 and FY26. These benefits will come as the result of insurance coverage of an estimated 2,000 newly eligible children for this State CHIP program, as calculated by legislative fiscal analysts.
As this information was included in S.B. 217's (2023) fiscal note and is not a result of this rule, it is not reflected in the Regulatory Impact Table for this rule. The Division will see a fiscal benefit of \$505,000 for FY25 and \$562,600 for FY26. Similarly, the amount

for FY27 is inestimable as it will be based on data from FY25 and FY26. This benefit will come as a result of insurance premiums of \$25 for an estimated 2,000 newly eligible children for this State CHIP program.

**B) Local governments:**

Local governments will not see a fiscal impact as they neither fund nor provide eligibility under State CHIP.

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

Small businesses will not see a fiscal impact as this rule does not result in a regulatory burden.

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

Non-small businesses will not see a fiscal impact as this rule does not result in a regulatory burden.

**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**):

CHIP Households will see a fiscal cost of \$505,000 for FY25 and \$562,600 for FY26. A cost is also anticipated for CHIP households in FY27, but this amount is inestimable as it will be based on data from FY25 and FY26.

This cost will come as a result of monthly insurance premiums of \$25 for an estimated 2,000 newly eligible children for the State CHIP program. This data is calculated by legislative fiscal analysts within the fiscal note for S.B. 217 (2023)

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

A single household will pay about \$25 monthly for health insurance premium coverage for the state CHIP program.

**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	\$505,000	\$562,600	\$0
<b>Total Fiscal Cost</b>	<b>\$505,000</b>	<b>\$562,600</b>	<b>\$0</b>
Fiscal Benefits	FY2025	FY2026	FY2027
State Government	\$4,430,500	\$4,911,300	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$4,430,500</b>	<b>\$4,911,300</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$3,925,500</b>	<b>\$4,348,700</b>	<b>\$</b>

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

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis.

**Citation Information**

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

Section 26B-213	Section 26B-3-108	Section 26B-3-902
-----------------	-------------------	-------------------

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	10/01/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	10/08/2024
---	------------

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	08/12/2024
---	-------------------------------------	--------------	------------

**R382. Health and Human Services, Children's Health Insurance Program.**

**R382-11. State Children's Health Insurance Program.**

**R382-11-1. Authority and Purpose.**

(1) Section 26B-3-902 authorizes this rule.

(2) This rule establishes the eligibility requirements for enrollment and the benefits enrollees receive under the State Children's Health Insurance Program (State CHIP), in accordance with Section 26B-3-910.

**R382-11-2. Eligibility Requirements.**

(1) Except as otherwise stated in this rule, Rules R382-1, R382-2, R382-3, and R382-10 apply to State CHIP.

(2) The Department of Health and Human Services may close enrollment in State CHIP based upon available funding.

(3) State CHIP is available only to non-citizen children who do not meet the citizenship requirements for Traditional CHIP as defined in Section R382-10-6.

(4) An individual who has not lived in Utah for 180 days before the date of application without a break in residency is ineligible for State CHIP.

(5) An enrollee in State CHIP shall have the same benefits and cost sharing requirements as an enrollee who:

(a) is enrolled in Traditional CHIP; and

(b) has a household countable income of 200% of the federal poverty level.

(6) If a child's parent who resides in the same household is not engaged in unsubsidized employment, the child may not enroll in State CHIP.

**KEY: state CHIP, eligibility, enrollment**

**Date of Last Change: 2024**

**Authorizing, and Implemented or Interpreted Law: 26B-1-213; 26B-3-108; 26B-3-902**

**NOTICE OF SUBSTANTIVE CHANGE**

<b>TYPE OF FILING:</b> Amendment	
<b>Rule or Section Number:</b> R414-1-6	<b>Filing ID:</b> 56705

**Agency Information**

<b>1. Title catchline:</b>	Health and Human Services, Integrated Healthcare
<b>Building:</b>	Cannon Health Building
<b>Street address:</b>	288 N 1460 W
<b>City, state:</b>	Salt Lake City, UT
<b>Mailing address:</b>	PO Box 143102
<b>City, state and zip:</b>	Salt Lake City, UT 84114-3102

<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R414-1-6. Services Available
<b>3. Purpose of the new rule or reason for the change:</b>
In accordance with S.B. 133 of the 2023 General Session, the purpose of this change is to update the timeline of extended services available to pregnant members who are eligible for postpartum coverage under Medicaid.
<b>4. Summary of the new rule or change:</b>
This amendment extends the timeline of post-partum coverage to 12 months after pregnancy ends and makes other style and formatting changes in accordance with the Rulewriting Manual for Utah.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The Department of Health and Human Services (Department) may see an increase in federal funding of about \$1,714,000 in FY25 and \$3,159,700 in FY26 for extended postpartum coverage for Medicaid members. These funds were allocated during the 2023 General Session. It is not anticipated that there will be any additional cost to the state as a result of this filing.
<b>B) Local governments:</b>
Local authorities for substance abuse and mental health may see costs of about \$95,000 in FY25 and \$190,000 ongoing in FY26, as captured in S.B. 133's (2023) fiscal note. These authorities, however, would receive \$280,000 in FY25 and \$560,000 ongoing in FY26 to provide substance abuse and mental health services for new Medicaid members, as allocated during the 2023 General Session.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
Small businesses are not anticipated to see a fiscal impact, as this change will not result in tax or fee changes, which could otherwise result in a cost or savings.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>
Non-small businesses are not anticipated to see an impact, as this change will not result in tax or fee changes, which could otherwise result in a cost or savings.
<b>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 <i>agency</i>):</b>
No other entities, persons, or associations are anticipated to see a fiscal impact, as this change will not result in additional costs or out-of-pocket expenses, nor will it result in any savings, as there are no tax or fee changes.
<b>F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):</b>
Each local government may see compliance costs for substance abuse and mental health services for new Medicaid members. However, this amount is inestimable at this time because an annual report with estimable data would not be available until the end of FY 2025 to illustrate services provided to postpartum members.. Neither the state government nor any other person is anticipated to see a compliance cost, as this change is not expected to result in additional costs or out-of-pocket expense.



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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
State Government	\$0	\$0	\$0
Local Governments	\$95,000	\$190,000	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$95,000</b>	<b>\$190,000</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
State Government	\$1,714,000	\$3,159,700	\$0
Local Governments	\$280,000	\$560,000	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$1,994,000</b>	<b>\$3,719,700</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$1,899,000</b>	<b>\$3,529,700</b>	<b>\$0</b>

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

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis.

**Citation Information**

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

Section 26B-1-213	Section 26B-3-108	
-------------------	-------------------	--

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	10/01/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	10/08/2024
---	------------

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	08/12/2024
---	-------------------------------------	--------------	------------

**R414. Health and Human Services, Integrated Healthcare.**

**R414-1. Utah Medicaid Program.**

**R414-1-6. Services Available.**

(1) Medical or hospital services available under the Medical Assistance Program are generally limited by federal guidelines as set forth under Title XIX [of the federal], Social Security Act and [Title 42 of the Code of Federal Regulations (CFR)] Chapter IV, Subchapter C, 42 CFR (2024).

(2) The following services provided in the [Utah] Medicaid State Plan are available to both [the] categorically needy and medically needy individuals:

- (a) inpatient hospital services, with the exception of those services provided in an institution for mental diseases;
- (b) outpatient hospital services and rural health clinic services;
- (c) other laboratory and x-ray services;
- (d) skilled nursing facility services, other than services in an institution for mental diseases, for individuals 21 years of age or older;

NOTICES OF PROPOSED RULES

- (e) early and periodic screening and diagnoses of individuals under 21 years of age, and treatment of conditions found, are provided in accordance with federal requirements;
- (f) family planning services and supplies for individuals of child-bearing age;
- (g) physician services, whether furnished in the office, the patient's home, a hospital, a skilled nursing facility, or elsewhere;
- (h) podiatrist services;
- (i) optometrist services;
- (j) psychologist services;
- (k) interpreter services;
- (l) home health services, including:
  - (i) intermittent or part-time nursing services provided by a home health agency;
  - (ii) home health aide services by a home health agency; and
  - (iii) medical supplies, equipment, and appliances;
- (m) private duty nursing services for children under 21 years of age;
- (n) clinic services;
- (o) dental services;
- (p) physical therapy and related services;
- (q) services for individuals with speech, hearing, and language disorders furnished by or under the supervision of a speech pathologist or audiologist;
- (r) prescribed drugs, dentures, and prosthetic devices and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist;
- (s) other diagnostic, screening, preventive, and rehabilitative services other than those provided elsewhere in the Utah Medicaid State Plan;
  - (t) services for individuals 65 years of age or older in institutions for mental diseases, including:
    - (i) inpatient hospital services for individuals 65 years of age or older in institutions for mental diseases;
    - (ii) skilled nursing services for individuals 65 years of age or older in institutions for mental diseases; and
    - (iii) intermediate care facility services for individuals 65 years of age or older in institutions for mental diseases[-];
  - (u) intermediate care facility services, other than services in an institution for mental diseases. [-]These services are for individuals determined, in accordance with Subsection 1902(a)(31)(A)[-of the], Social Security Act, to be in need of this care, including those services furnished in a public institution for the mentally retarded or for individuals with related conditions;
  - (v) inpatient psychiatric facility services for individuals under 22 years of age;
  - (w) nurse-midwife services;
  - (x) family or pediatric nurse practitioner services;
  - (y) physician assistant services;
  - (z) hospice care in accordance with Subsection 1905(o)[-of the], Social Security Act;
  - (aa) case management services in accordance with Subsection 1905(a)(19)[-of the Social Security Act] or Subsection 1915(g)[-of the], Social Security Act;
    - (bb) extended services to pregnant women, pregnancy-related services, postpartum services for [60 days,]12 months, and additional services for any other medical conditions that may complicate pregnancy;
    - (cc) ambulatory prenatal care for pregnant women furnished during a presumptive eligibility period by a qualified provider in accordance with Section 1920[-of the], Social Security Act; and
    - (dd) other medical care and other types of remedial care recognized under state law, specified by the Secretary of the United States Department of Health and Human Services, pursuant to 42 CFR 440.60 and 440.170 (2024), including:
      - (i) medical or remedial services provided by licensed practitioners, other than physician services, within the scope of practice as defined by state law;
      - (ii) transportation services;
      - (iii) skilled nursing facility services for patients under 21 years of age;
      - (iv) emergency hospital services; and
      - (v) personal care services in the recipient's home, prescribed in a plan of treatment and provided by a qualified person, under the supervision of a registered nurse; and
    - (ee) other medical care, medical supplies, and medical equipment not otherwise a Medicaid service if the [D]division determines that it meets both of the following criteria:
      - (i) it is medically necessary and more appropriate than any Medicaid-covered service; and
      - (ii) it is more cost effective than any Medicaid-covered service.

**KEY: Medicaid**

**Date of Last Change: 2024[December 6, 2023]**

**Notice of Continuation: December 13, 2021**

**Authorizing, and Implemented or Interpreted Law: 26B-1-213; 26B-3-108; 26B-8-132**

**NOTICE OF SUBSTANTIVE CHANGE**

**TYPE OF FILING:** Amendment

**Rule or Section Number:**

**R414-49**

**Filing ID: 56708**

**Agency Information**

<b>1. Title catchline:</b>	Health and Human Services, Integrated Healthcare	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state:</b>	Salt Lake City, UT	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R414-49. Dental, Oral, and Maxillofacial Surgeons and Orthodontia
<b>3. Purpose of the new rule or reason for the change:</b>
In accordance with S.B. 133 of the 2023 General Session, the purpose of this change is to define the scope of dental services available to pregnant members who are eligible for Traditional Medicaid.
<b>4. Summary of the new rule or change:</b>
This amendment extends dental services to pregnant members who are eligible for Traditional Medicaid up to the end of the 12th month after pregnancy ends.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The Division of Integrated Health Care (Division) is expected to see a fiscal benefit of \$51,420 for FY25 and \$94,791 for FY26. It is also expected to see a fiscal benefit for FY27, but this amount is inestimable at this time, as it will be estimated based on data from FY25 and FY26 for increasing eligibility of postpartum Medicaid services from 60 days to 12 months.  For pregnant women who received dental services in FY23, expenditures for dental services accounted for 3% of their postpartum Medicaid services. Based on that percentage of revenue, the Division calculated the expected fiscal benefits as 3% of the totals of \$1,717,000 for FY25 and \$3,159,700 for FY26.
<b>B) Local governments:</b>
Local governments will not see a fiscal impact as they neither fund nor provide dental services under the Medicaid program.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
Small businesses will not see a fiscal impact as this change will not result in expenditures from tax or fee changes. Providers may see an increase in Medicaid member visits, but the cost or benefit is inestimable, as there is no way to know how many visits will occur as a direct result of this rule.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):  
 Non-small businesses will not see a fiscal impact as this change will not result in expenditures from tax or fee changes. Providers may see an increase in Medicaid member visits, but the cost or benefit is inestimable, as there is no way to know how many visits will occur as a direct result of this rule.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):  
 Eligible pregnant members may see a benefit of Medicaid dental coverage for an additional ten months, but any fiscal benefit would be inestimable, as there is no way to know how many visits will occur and the outcomes of these visits as a direct result of this rule.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):  
 This amendment is not anticipated to introduce compliance costs for affected persons, as this change will not result in additional costs or out-of-pocket expenses.

**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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2025	FY2026	FY2027
State Government	\$51,420	\$94,791	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$51,420</b>	<b>\$94,791</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$51,420</b>	<b>\$94,791</b>	<b>\$0</b>

**H) Department head comments on fiscal impact and approval of regulatory impact analysis:**  
 The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis.

**Citation Information**

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

Section 26B-1-213	Section 26B-3-108	
-------------------	-------------------	--

**Public Notice Information**

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

**A) Comments will be accepted until:** 10/01/2024

**9. This rule change MAY become effective on:** 10/08/2024

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

### Agency Authorization Information

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	08/12/2024
---	-------------------------------------	--------------	------------

#### **R414. Health and Human Services, Integrated Healthcare.**

#### **R414-49. Dental, Oral, and Maxillofacial Surgeons and Orthodontia.**

##### **R414-49-1. Introduction.**

The Medicaid Dental Program provides a scope of dental services for Medicaid members in accordance with the Dental, Oral Maxillofacial, and Orthodontia Services Utah Medicaid Provider Manual and Attachment 4.19-B of the Utah Medicaid State Plan~~as incorporated into Section R414-1-5~~.

##### **R414-49-2. Definitions.**

~~[(1)]~~In addition to the definitions in Rule R414-1 and the Utah Medicaid Provider Manual, Section I: General Information, the following definitions apply to this rule:

~~[(a)]~~1 "Anterior tooth" means tooth numbers:

~~[(i)]~~a 6 through 11;

~~[(ii)]~~b 22 through 27;

~~[(iii)]~~c C through H; and

~~[(iv)]~~d M through R.

~~[(b)]~~2 "Dental services" whether furnished in the office, a hospital, a skilled nursing facility, or elsewhere, means covered services performed within the scope of the Medicaid-enrolled dental provider's license as defined in Title 58, Occupations and Professions.

~~[(c)]~~3 "Posterior tooth" means tooth numbers:

~~[(i)]~~a 1 through 5;

~~[(ii)]~~b 12 through 21;

~~[(iii)]~~c 28 through 32;

~~[(iv)]~~d A through B;

~~[(v)]~~e I through L; and

~~[(vi)]~~f S through T.

##### **R414-49-3. Early and Periodic Screening, Diagnostic, and Treatment (EPSDT).**

This section defines the scope of dental services available to members who are eligible under the EPSDT program~~]~~ and includes comprehensive and preventive health care services.

~~(1) [The following program access requirement applies.~~

~~—(a)]~~Dental services are available only through an enrolled dental provider that complies with relevant laws and policy.

~~(2) The following coverage and limitations apply.~~

~~(a) Dental services are provided only within the parameters of generally accepted standards of dental practice and are subject to limitations and exclusions established by Medicaid.~~

~~(b) Dental services are subject to limitations and exclusions of medical necessity and utilization control considerations or conditions.~~

~~(c) Additional service limitations and exclusions are maintained in the Coverage and Reimbursement Code Look-up Tool and the Dental, Oral Maxillofacial, and Orthodontia Services Utah Medicaid Provider Manual. [-]These limitations and exclusions are updated in the Medicaid Information Bulletin.~~

~~(d) Medicaid reimburses one evaluation for one member each day, even if more than one provider is involved from the same office or clinic. [-]Medicaid does not cover multiple exams for the same date of service.~~

~~(e) Medicaid includes in the global payment, and does not reimburse separately, denture adjustments performed by the original provider within six months of a member receiving a denture.~~

~~(f) Medicaid may cover third-molar extractions when at least one of the third molars has documented pathology that requires extraction. [-]By discretion, a provider may remove the remaining third molars during the same procedure.~~

~~(g) Medicaid covers the treatment of temporomandibular joint fractures~~]~~ but does not cover other temporomandibular joint treatments.~~

~~(h) The laboratory or pathologist must submit claims directly to Medicaid for payment of laboratory services.~~

~~(3) Medicaid does not cover the following types of dental services:~~

~~(a) cast crowns, porcelain fused to metal, on posterior permanent teeth or on primary teeth;~~

~~(b) pulpotomies or pulpectomies on permanent teeth, except in the case of an open apex;~~

~~(c) fixed bridges or pontics;~~

~~(d) ~~any~~any type~~s]~~ of dental implant~~s]~~;~~

~~(e) tooth transplantation;~~

~~(f) ridge augmentation;~~

~~(g) osteotomies;~~

~~(h) vestibuloplasty;~~

NOTICES OF PROPOSED RULES

- (i) alveoloplasty;
  - (j) occlusal appliances, habit control appliances, or interceptive orthodontic treatment;
  - (k) treatment for temporomandibular joint syndrome, sequela, subluxation, or other therapies;
  - (l) procedures such as arthroscopy, meniscectomy, or condylectomy;
  - (m) nitrous oxide analgesia;
  - (n) house calls;
  - (o) consultation or second opinions not requested by Medicaid;
  - (p) services provided without prior authorization;
  - (q) general anesthesia for removal of an erupted tooth;
  - (r) oral sedation for behavior management;
  - (s) temporary dentures or temporary stayplate partial dentures;
  - (t) limited orthodontic treatment, including removable appliance therapies;
  - (u) removable appliances in conjunction with fixed banded treatment; and
  - (v) extraction of primary teeth at or near the time of exfoliation, as evidenced by mobility or loosening of the teeth.
- (4) ~~The following dental spend-ups apply.~~

~~(a)~~ A Medicaid member may choose to upgrade a covered service to a non-covered service if the member assumes the responsibility for the difference in fees for ~~the following dental procedures:~~

~~(i)~~ covered anterior stainless steel crowns that are deciduous, to non-covered anterior stainless steel crowns with composite facings added or commercial or lab-prepared facings.

**R414-49-4. Pregnant Members.**

This section defines the scope of dental services available to pregnant members who are eligible for Traditional Medicaid. ~~[-]Dental services extend up to the end of the 12th month [for a 60-day period] after [the-]pregnancy ends [and any remaining days in the month in which the 60 days lapse].~~

(1) ~~The following program access requirement applies.~~

~~(a)~~ Dental services are available only through an enrolled dental provider that complies with relevant laws and policy.

(2) The following coverage and limitations apply.

(a) Dental services are provided only within the parameters of generally accepted standards of dental practice and are subject to limitations and exclusions established by Medicaid.

(b) Dental services are subject to limitations and exclusions of medical necessity and utilization control considerations or conditions.

(c) Additional service limitations and exclusions are maintained in the Coverage and Reimbursement Code Look-up Tool and the Dental, Oral Maxillofacial, and Orthodontia Services Utah Medicaid Provider Manual. ~~[-]These limitations and exclusions are updated in the Medicaid Information Bulletin.~~

(d) Medicaid reimburses one evaluation for one member each day, even if more than one provider is involved from the same office or clinic. ~~[-]Medicaid does not cover multiple exams for the same date of service.~~

(e) Medicaid includes in the global payment, and does not reimburse separately, denture adjustments performed by the original provider within six months of a member receiving a denture.

(f) Medicaid may cover third-molar extractions when at least one of the third molars has documented pathology that requires extraction. ~~[-]By discretion, a provider may remove the remaining third molars during the same procedure.~~

(g) Medicaid covers the treatment of temporomandibular joint fractures<sup>[7]</sup> but does not cover other temporomandibular joint treatments.

(h) The laboratory or pathologist must submit claims directly to Medicaid for payment of laboratory services.

(3) Medicaid does not cover the following types of dental services:

(a) cast crowns, porcelain fused to metal, on posterior permanent teeth or on primary teeth;

(b) pulpotomies or pulpectomies on permanent teeth, except in the case of an open apex;

(c) fixed bridges or pontics;

(d) ~~all~~ any type[s] of dental implant[s];

(e) tooth transplantation;

(f) ridge augmentation;

(g) osteotomies;

(h) vestibuloplasty;

(i) alveoloplasty;

(j) occlusal appliances, habit control appliances, or interceptive orthodontic treatment;

(k) treatment for temporomandibular joint syndrome, sequela, subluxation, or other therapies;

(l) procedures such as arthroscopy, meniscectomy, or condylectomy;

(m) nitrous oxide analgesia;

(n) house calls;

(o) consultation or second opinions not requested by Medicaid;

(p) services provided without prior authorization;

(q) general anesthesia for removal of an erupted tooth;

(r) oral sedation for behavior management;

(s) temporary dentures or temporary stayplate partial dentures;

- (t) limited orthodontic treatment, including removable appliance therapies;
- (u) removable appliances in conjunction with fixed banded treatment; and
- (v) extraction of primary teeth at or near the time of exfoliation, as evidenced by mobility or loosening of the teeth.

(4) ~~The following dental spend-ups apply.~~

~~(a)~~ A Medicaid member may choose to upgrade a covered service to a non-covered service if the member assumes the responsibility for the difference in fees for ~~the following dental procedure:~~

~~(i)~~ covered anterior stainless steel crowns that are deciduous, to non-covered anterior stainless steel crowns with composite facings added or commercial or lab-prepared facings.

**R414-49-5. Blind or Disabled Members.**

This section defines the scope of dental services available to blind or disabled members eligible for Traditional Medicaid who are 18 years of age or older, as defined in Subsection 1614(a)~~[of the]~~, Social Security Act. ~~[S]~~Services are authorized by a federal waiver of Medicaid requirements approved by the Centers for Medicare and Medicaid Services, and allowed under Section 1115~~[of the]~~, Social Security Act.

(1) The following program access requirements apply.

(a) Dental services are available only through an enrolled dental provider that complies with relevant laws and policy.

(b) A dental provider may only perform services to this population through the University of Utah School of Dentistry (SOD) and its associated in-state provider network.

(2) The following coverage and limitations apply:

(a) dental services are provided only within the parameters of generally accepted standards of dental practice and are subject to limitations and exclusions established by Medicaid;

(b) dental services are subject to limitations and exclusions of medical necessity and utilization control considerations or conditions;

(c) additional service limitations and exclusions are maintained in the Coverage and Reimbursement Code Look-up Tool and the Dental, Oral Maxillofacial, and Orthodontia Services Utah Medicaid Provider Manual, and are updated in the Medicaid Information Bulletin;

(d) Medicaid reimburses one evaluation for one member each day, even if more than one provider is involved from the same office or clinic, not multiple exams for the same date of service;

(e) Medicaid includes in the global payment, and does not reimburse separately, denture adjustments performed by the original provider within six months of a member receiving a denture;

(f) Medicaid may cover third-molar extractions when at least one of the third molars has documented pathology that requires extraction, and by discretion, a provider may remove the remaining third molars during the same procedure;

(g) Medicaid covers the treatment of temporomandibular joint fractures, but does not cover other temporomandibular joint treatments; and

(h) a laboratory or pathologist must submit claims directly to Medicaid for payment of laboratory services.

(3) Medicaid does not cover the following types of dental services:

(a) pulpotomies or pulpectomies on permanent teeth, except in the case of an open apex;

(b) fixed bridges or pontics;

(c) ~~all~~ any type[s] of dental implant[s];

(d) tooth transplantation;

(e) ridge augmentation;

(f) osteotomies;

(g) vestibuloplasty;

(h) alveoloplasty;

(i) occlusal appliances, habit control appliances, or interceptive orthodontic treatment;

(j) treatment for temporomandibular joint syndrome, sequela, subluxation, or other therapies;

(k) procedures such as arthroscopy, meniscectomy, or condylectomy;

(l) nitrous oxide analgesia;

(m) house calls;

(n) consultation or second opinions not requested by Medicaid;

(o) services provided without prior authorization;

(p) general anesthesia for removal of an erupted tooth;

(q) oral sedation for behavior management;

(r) temporary dentures or temporary stayplate partial dentures;

(s) limited orthodontic treatment, including removable appliance therapies;

(t) removable appliances in conjunction with fixed banded treatment; and

(u) extraction of primary teeth at or near the time of exfoliation, as evidenced by mobility or loosening of the teeth.

**R414-49-6. Targeted Adult Medicaid (TAM).**

This section defines the scope of dental services available to eligible ~~[targeted adult Medicaid]~~ TAM members who are actively receiving treatment in a substance abuse treatment program as defined in Section 26B-2-101, licensed under Title 26B, Chapter 2, Licensure of Programs and Facilities. ~~[S]~~Services are authorized by a federal waiver of Medicaid requirements approved by the Centers for Medicare and Medicaid Services, and allowed under Section 1115~~[of the]~~, Social Security Act.

(1) The following program access requirements apply.

(a) Dental services are available only through an enrolled dental provider that complies with relevant laws and policy.

## NOTICES OF PROPOSED RULES

(b) A dental provider may only perform services to this population through the SOD and its associated in-state provider network.

(c) Before performing any dental services, SOD shall obtain verification of active treatment for substance use disorder (SUD) from the substance abuse treatment program. [-]The SOD shall then submit an SUD verification form to Medicaid for each eligible TAM member. [ ]The SUD verification form is available in "All Providers General Attachments" on the Utah Medicaid website at <https://medicaid.utah.gov>.

(2) The following coverage and limitations apply:

(a) dental services are provided only within the parameters of generally accepted standards of dental practice and are subject to limitations and exclusions established by Medicaid;

(b) dental services are subject to limitations and exclusions of medical necessity and utilization control considerations or conditions;

(c) additional service limitations and exclusions are maintained in the Coverage and Reimbursement Code Look-up Tool and the Dental, Oral Maxillofacial, and Orthodontia Services Utah Medicaid Provider Manual, and are updated in the Medicaid Information Bulletin;

(d) Medicaid reimburses one evaluation for one member each day, even if more than one provider is involved from the same office or clinic, not multiple exams for the same date of service;

(e) Medicaid includes in the global payment, and does not reimburse separately, denture adjustments performed by the original provider within six months of a member receiving a denture;

(f) Medicaid may cover third-molar extractions when at least one of the third molars has documented pathology that requires extraction, and by discretion, a provider may remove the remaining third molars during the same procedure;

(g) Medicaid covers the treatment of temporomandibular joint fractures, but does not cover other temporomandibular joint treatments;

(h) a laboratory or pathologist must submit claims directly to Medicaid for payment of laboratory services; and

(i) Medicaid covers porcelain crowns and cast crowns. [-]Cast crowns are porcelain fused to metal.

(3) Medicaid does not cover the following types of dental services:

(a) pulpomies or pulpectomies on permanent teeth, except in the case of an open apex;

(b) fixed bridges or pontics;

(c) ~~any~~any type[s] of dental implant[s];

(d) tooth transplantation;

(e) ridge augmentation;

(f) osteotomies;

(g) vestibuloplasty;

(h) alveoloplasty;

(i) occlusal appliances, habit control appliances, or interceptive orthodontic treatment;

(j) treatment for temporomandibular joint syndrome, sequela, subluxation, or other therapies;

(k) procedures such as arthroscopy, meniscectomy, or condylectomy;

(l) nitrous oxide analgesia;

(m) house calls;

(n) consultation or second opinions not requested by Medicaid;

(o) services provided without prior authorization;

(p) general anesthesia for removal of an erupted tooth;

(q) oral sedation for behavior management;

(r) temporary dentures or temporary stayplate partial dentures;

(s) limited orthodontic treatment, including removable appliance therapies;

(t) removable appliances in conjunction with fixed banded treatment; and

(u) extraction of primary teeth at or near the time of exfoliation, as evidenced by mobility or loosening of the teeth.

### **R414-49-7. Aged Members.**

This section defines the scope of dental services available to aged members eligible for Traditional Medicaid who are 65 years of age or older, as defined in 42 U.S.C Sec. 1382c(a)(1)(A). [-]Services are authorized by a federal waiver of Medicaid requirements approved by the Centers for Medicare and Medicaid Services, and allowed under Section 1115[-of the], Social Security Act.

(1) The following program access requirements apply.

(a) Dental services are available only through an enrolled dental provider that complies with relevant laws and policy.

(b) A dental provider may only perform services to this population through the SOD and its associated in-state provider network.

(2) The following coverage and limitation provisions apply:

(a) dental services are provided only within the parameters of generally accepted standards of dental practice and are subject to limitations and exclusions established by Medicaid;

(b) dental services are subject to limitations and exclusions of medical necessity and utilization control considerations or conditions;

(c) additional service limitations and exclusions are maintained in the Coverage and Reimbursement Code Look-up Tool and the Dental, Oral Maxillofacial, and Orthodontia Services Utah Medicaid Provider Manual, and are updated in the Medicaid Information Bulletin;

(d) Medicaid reimburses one evaluation for one member each day, even if more than one provider is involved from the same office or clinic, not multiple exams for the same date of service;

(e) Medicaid includes in the global payment, and does not reimburse separately, denture adjustments performed by the original provider within six months of a member receiving a denture;

(f) Medicaid may cover third-molar extractions when at least one of the third molars has documented pathology that requires extraction, and by discretion, a provider may remove the remaining third molars during the same procedure;



- (g) Medicaid covers the treatment of temporomandibular joint fractures, but does not cover other temporomandibular joint treatments;
- (h) a laboratory or pathologist must submit claims directly to Medicaid for payment of laboratory services;
- (i) Medicaid covers porcelain crowns and cast crowns. [-]Cast crowns are porcelain fused to metal.
- (3) Medicaid does not cover the following types of dental services:
  - (a) pulpotomies or pulpectomies on permanent teeth, except in the case of an open apex;
  - (b) fixed bridges or pontics;
  - (c) ~~any~~ any type[s] of dental implant[s];
  - (d) tooth transplantation;
  - (e) ridge augmentation;
  - (f) osteotomies;
  - (g) vestibuloplasty;
  - (h) alveoloplasty;
  - (i) occlusal appliances, habit control appliances, or interceptive orthodontic treatment;
  - (j) treatment for temporomandibular joint syndrome, sequela, subluxation, or other therapies;
  - (k) procedures such as arthroscopy, meniscectomy, or condylectomy;
  - (l) nitrous oxide analgesia;
  - (m) house calls;
  - (n) consultation or second opinions not requested by Medicaid;
  - (o) services provided without prior authorization;
  - (p) general anesthesia for removal of an erupted tooth;
  - (q) oral sedation for behavior management;
  - (r) temporary dentures or temporary stayplate partial dentures;
  - (s) limited orthodontic treatment, including removable appliance therapies;
  - (t) removable appliances in conjunction with fixed banded treatment; and
  - (u) extraction of primary teeth at or near the time of exfoliation, as evidenced by mobility or loosening of the teeth.

**R414-49-8. Emergency Dental.**

This section defines the scope of dental services available to members who are otherwise eligible under the Medicaid program.

(1) ~~The following program access requirement applies.~~

~~(a) Dental services are available only through an enrolled dental provider that complies with relevant laws and policy.~~

(2) The following coverage and limitations apply.

(a) Emergency dental services are the treatment of a sudden and acute onset of a dental condition that requires immediate treatment, when delay in treatment would jeopardize or cause permanent damage to a person's dental or medical health.

(b) Emergency dental service limitations and exclusions are maintained in the Coverage and Reimbursement Code Look-up Tool and the Dental, Oral Maxillofacial, and Orthodontia Services Utah Medicaid Provider Manual. [-]These limitations and exclusions are updated in the Medicaid Information Bulletin.

**KEY: Medicaid**

**Date of Last Change:** 2024~~November 10, 2023~~

**Notice of Continuation:** May 29, 2024

**Authorizing, and Implemented or Interpreted Law:** 26B-1-213; 26B-3-108

NOTICE OF SUBSTANTIVE CHANGE		
<b>TYPE OF FILING:</b> Amendment		
<b>Rule or Section Number:</b>	R414-308-6	<b>Filing ID:</b> 56706

**Agency Information**

<b>1. Title catchline:</b>	Health and Human Services, Integrated Healthcare
<b>Building:</b>	Cannon Health Building
<b>Street address:</b>	288 N 1460 W
<b>City, state</b>	Salt Lake City, UT 84116
<b>Mailing address:</b>	PO Box 143102
<b>City, state and zip:</b>	Salt Lake City, UT 84114-3102

<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R414-308-6. Eligibility Period and Reviews
<b>3. Purpose of the new rule or reason for the change:</b>
In accordance with S.B. 133 of the 2023 General Session, the purpose of this change is to include new eligibility requirements and update the timeline for the postpartum coverage of Medicaid members. It additionally updates the title catchline, following the reorganization of the Department of Health and Human Services (department).
<b>4. Summary of the new rule or change:</b>
This amendment includes updates to spenddown, age, and residency requirements for Medicaid members to become eligible for postpartum coverage.  Additionally, it extends the timeline of postpartum coverage to 12 months. It also updates the title catchline, changes "recipient" to "member" in the rule text and makes other style and formatting changes in accordance with the Rulewriting Manual for Utah.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The Department may see an increase in federal funding of about \$1,714,000 in FY25 and \$3,159,700 in FY26 for extended postpartum coverage for Medicaid members, including dental services. These funds were allocated during the 2023 General Session, and a portion of these funds is intended for use as a result of this filing.  There is, however, no method to determine the amount of this portion because administrative costs for eligibility vary depending on individual cases and requirements. Therefore, it is not reflected on the Regulatory Impact Table.
<b>B) Local governments:</b>
Local governments are not anticipated to see a fiscal impact, as they neither fund nor provide eligibility under the Medicaid program, which could otherwise result in a cost or savings.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
Small businesses are not anticipated to see a fiscal impact, as this change will not result in tax or fee changes, which could otherwise result in a cost or savings.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>
Non-small businesses are not anticipated to see an impact, as this change will not result in tax or fee changes, which could otherwise result in a cost or savings.
<b>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):</b>
No other entities, persons, or associations are anticipated to see a fiscal impact, as this change will not result in additional costs or out-of-pocket expenses, nor will it result in any savings, as there are no tax or fee changes.

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

No state or local government, Medicaid provider, or Medicaid member will see compliance costs, as this change will not result in additional costs or out-of-pocket expenses.

**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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this fiscal analysis.

**Citation Information**

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

Section 26B-1-213	Section 26B-3-108	
-------------------	-------------------	--

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	10/01/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	10/08/2024
---	------------

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	08/12/2024
---	-------------------------------------	--------------	------------

**R414. Health and Human Services, ~~Health Care Financing, Coverage and Reimbursement Policy~~ Integrated Healthcare.**

**R414-308. Application, Eligibility Determinations, Improper Medical Assistance, and Suspension of Benefits.**

**R414-308-6. Eligibility Period and Reviews.**

(1)(a) The eligibility period begins on the effective date of eligibility as defined in Section R414-306-4, which may be after the first day of a month, subject to the following requirements.

([a]b) If a [recipient]member must pay one of the following fees to receive Medicaid, the eligibility agency shall determine eligibility and notify the [recipient]member of the amount owed for coverage. [-]The eligibility agency shall grant eligibility [when]if it receives the

NOTICES OF PROPOSED RULES

required payment, or in the case of a spenddown or cost-of-care contribution for waivers, ~~when~~ if the ~~recipient~~ member sends proof of incurred medical expenses equal to the payment. [-]The fees a ~~recipient~~ member may owe include:

- (i) a spenddown of excess income for medically needy Medicaid coverage;
- (ii) a Medicaid Work Incentive (MWI) premium; or
- (iii) a cost-of-care contribution for home and community-based waiver services.

~~(b)2~~ A required spenddown, MWI premium, or cost-of-care contribution is due each month for a ~~recipient~~ member to receive Medicaid coverage. A pregnant member or member in their postpartum period is only required to meet the spenddown once and remains eligible through the remainder of the postpartum period.

~~(e)3~~ The ~~recipient~~ member must make the payment or provide proof of medical expenses within 30 calendar days from the mailing date of the application approval notice, which states how much the ~~recipient~~ member owes.

~~(d)4~~ For ongoing months of eligibility, the ~~recipient~~ member has until the close of business on the tenth day of the month after the benefit month to meet the spenddown or the cost-of-care contribution for waiver services, or to pay the MWI premium. [-]If the tenth day of the month is a non-business day, the ~~recipient~~ member has until the close of business on the first business day after the tenth. [-]Eligibility begins on the first day of the benefit month once the ~~recipient~~ member meets the required payment. [-]If the ~~recipient~~ member does not meet the required payment by the due date, the ~~recipient~~ member may reapply for retroactive benefits if that month is within the retroactive period of the new application date.

~~(e)5~~ A ~~recipient~~ member who lives in a long-term care facility and owes a cost-of-care contribution to the medical facility must pay the medical facility directly. [-]The ~~recipient~~ member may use unpaid past medical bills[-] or current incurred medical bills other than the charges from the medical facility[-] to meet some or all of the cost-of-care contribution subject to the limitations in Section R414-304-9. An unpaid cost-of-care contribution is not allowed as a medical bill to reduce the amount that the ~~recipient~~ member owes the facility.

~~(f)6~~ Even ~~when~~ if the eligibility agency does not close a medical assistance case, no eligibility exists in a month ~~for~~ in which the ~~recipient~~ member fails to meet a required spenddown, MWI premium, or cost-of-care contribution for home and community-based waiver services.

~~(g)7~~ The eligibility agency shall continue eligibility for a resident of a nursing home even ~~when~~ if an eligible resident fails to pay the nursing home the cost-of-care contribution. [-]The resident, however, must continue to meet all other eligibility requirements.

~~(2)8~~ The eligibility period ends on:

- (a) the last day of the month in which the eligibility agency determines that the ~~recipient~~ member is no longer eligible for medical assistance and sends proper closure notice;
- (b) the last day of the month in which the eligibility agency sends proper closure notice ~~when~~ if the ~~recipient~~ member fails to provide required information or verification to the eligibility agency by the due date;
- (c) the last day of the month in which the ~~recipient~~ member asks the eligibility agency to discontinue eligibility, or if benefits have been issued for the following month, the end of that month;
- (d) for time-limited programs, the last day of the month in which the time limit ends;
- (e) for the pregnant woman program, the last day of the month which is at least ~~60 days~~ 12 months after the date the pregnancy ends, except that for pregnant woman coverage for emergency services only, eligibility ends on the last day of the month in which the pregnancy ends; ~~or~~

~~(f)g~~ the date the ~~individual~~ member dies.

~~(i)~~ the end of the 12-month period beginning on the date the member is determined eligible;

~~(ii)~~ the date the member reaches 19 years of age;

~~(iii)~~ the date the member ceases to be a state resident; or

~~(iv)~~ the date the member loses lawful permanent residence status as defined in Subsection R414-302-3(2); or

~~(f)g~~ the date the ~~individual~~ member dies.

~~(3)9~~ A presumptive eligibility period begins on the day the qualified entity determines an individual to be presumptively eligible.

[-]The presumptive eligibility period shall end on the earlier of:

(a) the day the eligibility agency makes an eligibility decision for medical assistance based on the individual's application ~~when~~ if that application is filed in accordance with the requirements of Sections 1920 and 1920A of the Social Security Act; or

(b) in the case of an individual who does not file an application in accordance with ~~the requirements of~~ Sections 1920 and 1920A of the Social Security Act, the last day of the month that follows the month in which the individual becomes presumptively eligible.

~~(4)10~~ For an individual selected for coverage under the Qualified Individuals ~~P~~ program, the eligibility agency shall extend eligibility through the end of the calendar year if the individual continues to meet eligibility criteria and the program still exists.

~~(5)11~~ The eligibility agency shall complete a periodic review of a ~~recipient's~~ member's eligibility for medical assistance in accordance with ~~the requirements of~~ 42 CFR 435.916 ~~(2024)~~ (2024) ~~October 1, 2013 ed., which the Department adopts and incorporates by reference.~~ [-]The ~~D~~ department elects to conduct reviews for non-MAGI-based coverage groups in accordance with 42 CFR 435.916(a)(3) if eligibility cannot be renewed in accordance with 42 CFR 435.916(a)(2). [-]The eligibility agency shall review factors that are subject to change to determine if the ~~recipient~~ member continues to be eligible for medical assistance.

~~(6)12~~ For non-MAGI-based coverage groups, the eligibility agency may complete an eligibility review more frequently ~~when~~ if it:

- (a) has information about anticipated changes in the ~~recipient's~~ member's circumstances that may affect eligibility;
- (b) knows the ~~recipient~~ member has fluctuating income;
- (c) completes a review for other assistance programs that the ~~recipient~~ member receives; or
- (d) needs to meet workload demands.

(13) If a [recipient]member fails to respond to a request for information to complete the review, the eligibility agency shall end eligibility effective at the end of the review month and send proper notice to the [recipient]member.

(a) If the [recipient]member responds to the review or reapplies within three calendar months of the review closure date, the eligibility agency shall consider the response to be a new application without requiring the [recipient]member to reapply. [-]The application processing period shall apply for the new request for coverage.

(b) If the [recipient]member becomes eligible based on this reapplication, the [recipient's]member's eligibility becomes effective the first day of the month after the closure date if verification is provided timely. [-]If the [recipient]member fails to return verification timely or if the [recipient]member is determined to be ineligible, the eligibility agency shall send a denial notice to the [recipient]member.

(c) The eligibility agency may not continue eligibility while it makes a new eligibility determination.

(14) If the eligibility agency sends proper notice of an adverse decision in the review month, the agency shall change eligibility for the following month.

(15) If the eligibility agency does not send proper notice of an adverse change for the following month, the agency shall extend eligibility to the following month. [-]Upon completing an eligibility determination, the eligibility agency shall send proper notice of the effective date of any adverse decision.

(16) If the [recipient]member responds to the review in the review month and the verification due date is in the following month, the eligibility agency shall extend eligibility to the following month. [-]The [recipient]member must provide [all]verification by the verification due date.

(a) If the [recipient]member provides [all]requested verification by the verification due date, the eligibility agency shall determine eligibility and send proper notice of the decision.

(b) If the [recipient]member does not provide [all]requested verification by the verification due date, the eligibility agency shall end eligibility effective the end of the month in which the eligibility agency sends proper notice of the closure.

(c) If the [recipient]member returns [all]verification after the verification due date and before the effective closure date, the eligibility agency shall treat the date that it receives the verification as a new application date. [-]The agency shall then determine eligibility and send notice to the [recipient]member.

(17) The eligibility agency shall provide ten-day notice of case closure if the [recipient]member is determined ineligible or if the [recipient]member fails to provide [all]verification by the verification due date.

(18) The eligibility agency may not extend coverage under certain medical assistance programs in accordance with state and federal law. [-]The agency shall notify the [recipient]member before the effective closure date.

(a) If the eligibility agency determines that the [recipient]member qualifies for a different medical assistance program, the agency shall notify the [recipient]member. [-]Otherwise, the agency shall end eligibility when the permitted time period for [such]the program expires.

(b) If the [recipient]member provides information before the effective closure date that indicates [that]the [recipient]member may qualify for another medical assistance program, the eligibility agency shall treat the information as a new application. [-]If the [recipient]member contacts the eligibility agency after the effective closure date, the [recipient]member must reapply for benefits.

**KEY: public assistance programs, applications, eligibility, Medicaid**

**Date of Last Change: 2024[May 31, 2022]**

**Notice of Continuation: January 6, 2023**

**Authorizing, and Implemented or Interpreted Law: 26B-18[3-108; 26B-1-213]**

**NOTICE OF SUBSTANTIVE CHANGE**

**TYPE OF FILING:** Amendment

**Rule or Section Number:**

**R432-100**

**Filing ID: 56710**

**Agency Information**

<b>1. Title catchline:</b>	Health and Human Services, Health Care Facility Licensing	
<b>Building:</b>	Multi Agency State Office Building	
<b>Street address:</b>	195 N 1950 W	
<b>City, state:</b>	Salt Lake City, UT	
<b>Mailing address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Janice Weinman	385-321-5586	jweinman@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R432-100. General Hospital Standards
<b>3. Purpose of the new rule or reason for the change:</b>
In response to S.B. 38 of the 2023 General Session for statute recodification and departmental reorganization, as well as S.B. 46 of the 2024 General Session, this filing updates citations and agency names.  Additionally, in response to S.B. 229 of the 2024 General Session, it updates penalty language.  In response to a change in Joint Commission (JC) standards, this filing also updates the time frame for reviewing appointments and reappointments of physicians.
<b>4. Summary of the new rule or change:</b>
This filing updates agency names and citations, the time frame for reviewing appointments and reappointments of physicians from two to three years and makes style and formatting changes for compliance with the Rulewriting Manual for Utah.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This proposed change is not anticipated to have a fiscal impact to the budget of the Division of Licensing and Background Checks (Division). The proposed rule change updates stylistic elements and statutory citations, as well as the federal allowance for businesses to review physician appointments every three years instead of every two years.  No new processes or requirements with an anticipated fiscal impact are introduced for the physician reviews.
<b>B) Local governments:</b>
This proposed rule amendment is not expected to have a fiscal impact on local governments, as local governments do not regulate these facilities and this proposed amendment does not make any change to local business licensing or other processes with which local government is involved.  As such, this change is not expected to result in any impact to local governments.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
This proposed change is not anticipated to have a fiscal impact to small hospitals. The proposed rule change updates stylistic elements and statutory citations, as well as the federal allowance for businesses to review physician appointments every three years instead of every two years.  No new processes or requirements with an anticipated fiscal impact are introduced for the physician reviews.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
This proposed change is not anticipated to have a fiscal impact to non-small hospitals. The proposed rule change updates stylistic elements and statutory citations, as well as the federal allowance for businesses to review physician appointments every three years instead of every two years.  No new processes or requirements with an anticipated fiscal impact are introduced for the physician reviews.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):
This proposed change is not anticipated to have a fiscal impact to other persons. The proposed rule change updates stylistic elements and statutory citations, as well as the federal allowance for businesses to review physician appointments every three years instead of every two years.

No new processes or requirements with an anticipated fiscal impact are introduced for the physician reviews.

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

There are no anticipated compliance costs associated with this rule. The proposed rule change updates stylistic elements and statutory citations, as well as the federal allowance for businesses to review physician appointments every three years instead of every two years.

No new processes or requirements with an anticipated fiscal impact are introduced for the physician reviews.

**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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis.

**Citation Information**

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

Section 26B-2-202		
-------------------	--	--

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	10/01/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	10/08/2024
---	------------

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S Gruber, Executive Director	<b>Date:</b>	08/12/2024
---	------------------------------------	--------------	------------

**R432. Health and Human Services, Health Care Facility Licensing.**

**R432-100. General Hospital Standards.**

**R432-100-1. Authority.**

Section 26B-2-202~~[1-202]~~ authorizes this rule.

**R432-100-2. Purpose.**

The purpose of this rule is to promote the public health and welfare through establishment and enforcement of licensure standards. The rule sets standards for the construction and operation of a general hospital. ~~[-]~~The standards of patient care apply to inpatient, outpatient, and satellite services.

**R432-100-3. Definitions.**

- (1) General Definitions of Rule R432-1 ~~[additionally]~~ apply to ~~[General Hospital Standards]~~ this rule.
- (2) "Caregiver" means an individual designated by a patient of the hospital to assist with continuing care that can be given in the patient's residence after discharge.
- (3) "Hospital blood services" are defined as follows:
  - (a) a "blood bank" means a facility that combines the functions of a donor center and transfusion service within the same facility;
  - (b) a "donor center" means a facility that procures, prepares, processes, stores, and transports blood and blood components; or
  - (c) a "transfusion service" means a facility that stores, determines compatibility, transfuses blood and blood components, and monitors transfused patients for any adverse effect.
- (4) "Swing-Bed" means a hospital room that can switch from inpatient acute care status to skilled care status.
- (5) "Type I Acute or Critical Access Hospital" means a hospital that offers comprehensive emergency care 24 hours ~~[per]~~ a day in-house, with at least one physician experienced in emergency care on staff in the emergency care area.
- (6) "Type II Acute or Critical Access Hospital" means a hospital that offers emergency care 24 hours ~~[per]~~ a day, with at least one physician experienced in emergency care on duty in the emergency care area, and with specialty consultation available within 30 minutes by members of the medical staff.
- (7) "Type III Acute or Critical Access Hospital" means a hospital that offers emergency care 24 hours ~~[per]~~ a day, with at least one physician available to the emergency care area within 30 minutes through a medical staff call roster.
- (8) "Type IV Acute or Critical Access Hospital" means a hospital that offers emergency first aid treatment to patients, staff, and visitors; and to persons who may be unaware of, or unable to immediately reach services in other facilities.

**R432-100-4. Construction, Facilities, and Equipment Standards.**

A licensee shall follow ~~[Rule R432-4 up to and including the General Construction Patient Facilities section]~~ Sections R432-4-1 through R432-4-20.

**R432-100-5. Hospital Swing-Bed and Transitional Care Units.**

- (1) A licensee that operates a hospital with designated swing-~~[-]~~bed units or transitional care units shall comply with this section.
- (2) In addition to Rule R432-100, a licensee that operates designated hospital swing-~~[-]~~beds shall comply with the following sections of Rule R432-150~~[- Nursing Care Facility Rules]~~:
  - (a) ~~[Definitions]~~ Section R432-150-4;
  - (b) ~~[Scope of Services]~~ Section R432-150-5;
  - (c) ~~[Quality Assurance]~~ Section R432-150-11;
  - (d) ~~[Resident Rights]~~ Section R432-150-12;
  - (e) ~~[Resident Assessment]~~ Section R432-150-13;
  - (f) ~~[Restraint Policy]~~ Section R432-150-14;
  - (g) ~~[Quality of Care]~~ Section R432-150-15;
  - (h) ~~[Physician Services]~~ Section R432-150-16;
  - (i) ~~[Laboratory Services]~~ Section R432-150-17;
  - (j) ~~[Recreation Therapy]~~ Section R432-150-19;
  - (k) ~~[Admission, Transfer and Discharge]~~ Section R432-150-21; and
  - (l) ~~[Food Services]~~ Section R432-150-23.
- (3) A transitional care unit requires licensure as a nursing care facility under a separate licensing category and the licensee shall conform to the requirements of Rule R432-150~~[- Nursing Care Facility Rule]~~.

**R432-100-6. Governing Body.**

- (1) Each licensee shall have a governing body ~~[hereinafter called]~~ referred to in this rule as the board.
- (2) The board members are legally responsible for the conduct of the hospital staff. ~~[-]~~The board members are also responsible for the appointment of the medical staff and an administrator assigned to carry out the requirements of Section R432-100-7.
- (3) The licensee shall ensure that the board is organized in accordance with the articles of incorporation or bylaws that specify:
  - (a) the duties and responsibilities of the board members;
  - (b) the method for election or appointment to the board;
  - (c) the size of the board;
  - (d) the terms of office of the board;



- (e) the methods for removal of board members and officers;
- (f) the duties and responsibilities of the officers and any standing committees;
- (g) the numbers or percentages of members that constitute a quorum for board meetings;
- (h) the board's functional organization, including any standing committees;
- (i) to whom responsibility for operation and maintenance of the hospital, including evaluation of hospital practices, may be delegated;
- (j) the methods established by the board for holding such individuals responsible;
- (k) the mechanism for formal approval of the organization, bylaws, rules of the medical staff and hospital departments; and
- (l) the frequency of meetings.

(4) The board members shall meet not less than quarterly, and shall keep written minutes of meetings and actions, and distribute copies to members of the board.

(5) The board members shall employ a competent ~~[executive officer or]~~ administrator and vest this person with authority and responsibility for carrying out board policies. ~~[-]The board shall define the [executive officer or]~~ administrator's qualifications, responsibilities, authority, and accountability in writing.

- (6) The board, through its officers, committees, medical, and other staff, shall:
  - (a) develop and implement a long-range plan;
  - (b) appoint members of the medical staff and delineate their clinical privileges;
  - (c) approve organization, bylaws, and rules of medical staff and hospital departments; and
  - (d) maintain a list of the scope and nature of any contracted services.

**R432-100-7. Administrator.**

(1) The administrator shall establish and maintain an organizational structure for the hospital indicating the authority and responsibility of various positions, departments, and services within the hospital.

(2) The administrator shall:

- (a) designate, in writing, a person to act in the administrator's absence;
- (b) be the direct representative of the board in the management of the hospital;
- (c) function as liaison between the board, the medical staff, the nursing staff, and departments of the hospital;
- (d) advise the board in the formulation of hospital policies and procedures;
- (e) review and revise policies and procedures to reflect current hospital practice;
- (f) ensure that policies and procedures are implemented and followed;
- (g) maintain a written record of ~~all~~ any business transactions and patient services provided in the hospital and submit reports as requested to the board;

(h) ensure that each applicant for medical and professional staff membership is oriented to agency or hospital bylaws and shall agree in writing to abide by each condition;

- (i) ensure that patient billing practices comply with the requirements of Section 26B-2-219; and
- (j) appoint a member of the staff to oversee compliance with the requirements of the Utah Anatomical Gift Act.

**R432-100-8. Medical and Professional Staff.**

(1) Each licensee shall have an organized medical and professional staff that operates under bylaws approved by the board.

(2) The medical and professional staff shall advise and be accountable to the board for the quality of medical care provided to patients.

(3) The medical and professional staff shall adopt bylaws, and policies and procedures to establish and maintain a qualified medical and professional staff including current licensure, relevant training and experience, and competency to perform the privileges requested. The bylaws shall address:

- (a) the appointment and re-appointment process;
- (b) the necessary qualifications for membership;
- (c) the delineation of privileges;
- (d) the participation and documentation of continuing education;
- (e) temporary credentialing and privileging of staff in emergency or disaster situations; and
- (f) a fair hearing and appeals process.

(4) A fully qualified physician who is licensed by the Department of Commerce shall supervise and direct the medical care of each person admitted to the hospital. ~~[-]During an emergency or disaster situation, a member of the credentialed and privileged staff shall supervise temporary credentialed practitioners.~~

(5) The licensee may not deny an applicant that is a podiatrist or psychologist solely on the grounds that they are not licensed to practice medicine under ~~[Chapter]Title 58, Chapter [-]67, Utah Medical Practice Act or [Chapter]Title 58, Chapter [-]68, [the]Utah Osteopathic Medical [Licensing]Practice Act.~~

(6) Membership and privileges may not be denied on any ground that is otherwise prohibited by law.

(7) The licensee shall orient each applicant for medical and professional staff membership to the bylaws and ensure they agree, in writing, to abide by each condition.

(8) The medical and professional staff shall review each applicant and grant privileges based on the scope of their license and abilities.

(9) The medical and professional staff shall review appointments and re-appointments to the medical and professional staff at least every ~~two~~ three years.

## NOTICES OF PROPOSED RULES

(10) During an emergency or disaster situation, the licensee shall ensure that each temporary practitioner is oriented to their assigned area.

### **R432-100-9. Personnel Management Service.**

(1) The licensee shall organize the personnel management system to ensure[?] personnel are competent to perform their respective duties, services, and functions.

(2) The licensee shall ensure ~~that~~ there are written policies, procedures, and performance standards that include:

(a) job descriptions for each position or employee;

(b) periodic employee performance evaluations;

(c) employee health screening, including Tuberculosis testing[?], as follows:

(i) ~~[Employee]~~employee tuberculosis skin testing ~~is done~~ by the Mantoux method or other Food and Drug Administration (FDA) approved in[-]vitro serologic test and follow-up for tuberculosis ~~[is done]~~ in accordance with Rule R388-804~~[-Special Measures for the Control of Tuberculosis]~~;

(ii) each employee is skin-tested for tuberculosis within two weeks of:

(A) initial hiring;

(B) suspected exposure to a person with active tuberculosis; and

(C) development of symptoms of tuberculosis[-]; and

(iii) ~~[S]~~skin testing is exempted for an[~~y~~] employee with known positive reaction to skin tests[-];

(d) each employee receives unit-specific training;

(e) direct care staff receive continued competency training in current patient care practices;

(f) direct care staff have current cardiopulmonary resuscitation certification. [-]Completion of an in-person course, to include skills testing and evaluation on-site with a licensed instructor is required for CPR certification; and

(g) Occupational Safety and Health Administration regulations regarding blood borne pathogens are implemented and followed.

(3) The licensee shall ensure that medical and professional personnel are registered, certified, or licensed as required by the Utah Department of Commerce within 45 days of employment.

(4) The licensee shall maintain a copy of each current certificate, license, or registration available for department review.

(5) The licensee shall provide annual documented in-service training for direct care and housekeeping staff [-]that addresses the requirements for reporting abuse, neglect, or exploitation of children or adults.

(6)(a) The licensee may utilize a volunteer in the daily activities of the hospital but a volunteer may not be included in the hospital staffing plan in lieu of hospital employees.

~~(a) the~~(b) The licensee shall screen and supervise a volunteer according to hospital policy.

~~(b) the~~(c) The licensee shall ensure that a volunteer is familiar with hospital volunteer policies, including patient rights and hospital emergency procedures.

(7) If the licensee participates in a professional graduate education program, the licensee shall ensure that there are policies and procedures specifying the patient care responsibilities and supervision of the graduate education program participants.

### **R432-100-10. Quality Improvement Plan.**

(1) The board members shall ensure that there is a well-defined quality improvement plan designed to improve patient care.

(2) The plan shall:

(a) be consistent with the delivery of patient care;

(b) be implemented and include a system for the collection of indicator data;

(c) include an incident reporting system to identify problems, concerns, and opportunities for improvement of patient care;

(d) ensure that incident reports are available for department review;

(e) include a system for assessing identified problems, concerns, and opportunities for improvement; and

(f) implement actions that are designed to eliminate identified problems and improve patient care.

(3) The licensee shall maintain a quality improvement committee. [-]The quality improvement committee shall maintain written minutes documenting corrective actions and results and make these minutes available for department review.

(4) The quality improvement committee shall report findings and concerns, at least quarterly, to the board, the medical staff, and the administrator.

(5) The licensee shall ensure that infection reporting is integrated into the quality improvement plan and is reported to the department in accordance with Rule R386-702~~[-Communicable Diseases]~~.

### **R432-100-11. Infection Control.**

(1) The licensee shall implement a hospital-wide infection control program that includes the following:

(a) definitions of nosocomial infections;

(b) a system for reporting, evaluating, and investigating infections;

(c) review and evaluation of aseptic, isolation, and sanitation techniques;

(d) methods for isolation depending on the medical condition involved;

(e) preventive, surveillance, and control procedures;

(f) laboratory services;

(g) an employee health program;

(h) orientation of ~~[any]~~new employees; and

- (i) documented in-service education for ~~any~~ departments and services related to infection control.
- (2) The licensee shall incorporate infection control reporting data into the hospital quality improvement process.
- (3) The licensee shall ensure that:
  - (a) there are written infection control policies and procedures for each area of the hospital, including requirements dictated by the physical layout, personnel and equipment involved;
  - (b) there are written policies for the selection, storage, handling, use and disposition of disposable or reusable items ~~Single-use items may be reused according to the policy;~~
  - ~~(e)~~ (c) single-use items may be reused according to the policy;
  - (d) there are specific policies and procedures for each type of reusable item;
  - ~~(d)~~ (e) reuse data is incorporated into the quality improvement process; and
  - ~~(e)~~ (f) reuse data is incorporated into the hospital infection control identification and reporting processes.

**R432-100-12. Patient Rights.**

- (1) The licensee shall inform each patient at the time of admission of patient rights and support the exercise of the patient's right to:
  - (a) access ~~any~~ medical records, and to purchase at a cost not to exceed the community standard, photocopies of their record;
  - (b) be fully informed of their medical health status in a language they can understand;
  - (c) reasonable access to care;
  - (d) refuse treatment;
  - (e) formulate an advance directive in accordance with the Title 75, Chapter 2a, Advance Health Care Directive Act;
  - (f) uniform, considerate, and respectful care;
  - (g) participate in the decision-making process in managing their health care with their physician, or to have a designated representative involved;
  - (h) express complaints regarding the care received and to have those complaints resolved when possible;
  - (i) refuse to participate in experimental treatment or research;
  - (j) be examined and treated in surroundings designed to give visual and auditory privacy; and
  - (k) be free from mental and physical abuse, and to be free from chemical and, except in emergencies, physical restraints except as authorized in writing by a licensed practitioner for a specified and limited period or when necessary to protect the patient from injury to themselves or others.
- (2) The licensee shall establish a policy and inform patients and legal representatives regarding the withholding of resuscitative services and the forgoing or withdrawing of life-sustaining treatment and end-of-life care. ~~[-]The licensee shall ensure the policy is consistent with ~~the~~ Title 75, Chapter 2a, Advance ~~(d)~~ Health Care Directive Act ~~[-, Section 75-2(a)-].~~~~

**R432-100-13. Patient Designated Caregiver.**

- (1) The licensee shall give a patient admitted to the hospital the opportunity to designate a caregiver who will assist the patient with continuing care after discharge from the hospital.
  - (a) The licensee shall document the designated caregiver in the patient record and include contact information ~~[-, and].~~
  - (b) ~~[-]If~~ (f) if the patient declines to designate a caregiver, the licensee shall document the patient's choice in the medical record.
- (2) The licensee shall notify the designated caregiver as soon as practicable before either of the following circumstances occur:
  - (a) the patient is transferred to another health facility; or
  - (b) the patient is discharged back to their own residence.
- ~~[-] (3) If the licensee cannot contact the designated caregiver when changes occur, the lack of contact may not interfere with, delay, or otherwise affect the medical care provided to the patient or the transfer or discharge of the patient.~~
- ~~[-] (3) The licensee shall document the dates and times of any attempt to contact the designated caregiver in the patient record ~~[-, to include dates and times attempted].~~~~
- ~~[-] (4) If the licensee cannot contact the designated caregiver when changes occur, the lack of contact may not interfere with, delay or otherwise affect the medical care provided to the patient or the transfer or discharge of the patient.~~
- (5) The patient may give written consent to allow the licensee to release medical information to the designated caregiver, pursuant to the hospital's established procedures for the release of personal health information.
- (6) Before the patient is discharged, the licensee shall provide a written discharge plan for continuing care needs to the patient and designated caregiver, that shall include:
  - (a) the name and contact information of the designated caregiver and relation to the patient;
  - (b) a description of continuing care tasks that the patient requires, in a culturally competent manner; and
  - (c) contact information for any other health care resources necessary to meet the needs of the patient.
- (7) Before the patient is discharged, the licensee shall provide the designated caregiver with an opportunity for instruction in continuing care tasks outlined in the discharge plan, that shall include:
  - (a) demonstration of the continuing care tasks by hospital personnel;
  - (b) opportunity for the patient and designated caregiver to ask questions and receive answers regarding the continuing care tasks;
 and
  - (c) education and counseling about medications, including dosing and proper use of delivery devices.
- (8) The licensee shall document the instruction given to the patient and designated caregiver in the patient record, to include the date, time, and contents of the instructions.

**R432-100-14. Nursing Care Services.**

- (1)(a) The licensee shall ensure that there is an organized nursing department that is integrated with other departments and services.
- (~~a~~)b) The licensee shall ensure the chief nursing officer of the nursing department is a registered nurse with demonstrated ability in nursing practice and administration.
- (~~b~~)c) The chief nursing officer shall approve the nursing policies and procedures, nursing standards of patient care, and standards of nursing practice.
- (~~e~~)d) The licensee shall ensure a registered nurse is designated and authorized to act in the chief nursing officer's absence.
- (~~d~~)e) Nursing tasks may be delegated pursuant to Section R156-~~31-701~~31b-701a~~, Delegation of Nursing Tasks~~.
- (2) The licensee shall ensure qualified registered nurses are on duty 24 hours ~~per~~a day to give patients nursing care that requires the judgment and special skills of a registered nurse.
- (3) The nursing department shall develop and maintain a system for determining staffing requirements for nursing care on the basis of demonstrated patient need, intervention priority for care, patient load, and acuity levels.
- (4)~~(Nursing staff)~~(a) The licensee shall ~~document~~ensure nursing care is documented for each patient from the time of admission through discharge.
- (~~a~~)b) A registered nurse shall document each patient's nursing care and coordinate interdisciplinary care.
- (~~b~~)c) The licensee shall ensure that nursing care documentation includes:
- (i) the assessments of patient's needs;
  - (ii) clinical diagnoses;
  - (iii) intervention identified to meet the patient's needs;
  - (iv) nursing care provided and the patient's response;
  - (v) the outcome of the care provided; and
  - (vi) the ability of the patient, family, or designated caregiver in managing the continued care after discharge.
- (~~e~~)d) Before discharge, each patient shall receive written instructions for any follow-up care or treatment.

**R432-100-15. Critical Care Unit.**

- (1) A licensee that provides a critical care unit shall comply with the requirements of Section R432-100-15. [-]The scope of services as delineated in hospital policy and board approval shall dictate the medical direction for the unit.
- (2) A designated, qualified, registered [-]nurse manager with relevant education, training, and experience in critical care shall provide critical care unit nursing direction. [-]The nurse manager shall:
- (a) coordinate the care provided by any nursing service personnel in the critical care unit;
  - (b) have administrative responsibility for the critical care unit; and
  - (c) assure that a registered nurse who has advanced life support certification is on duty and present in the unit 24 hours ~~per~~a day.
- (3) The licensee shall ensure that each critical care unit is designed and equipped to facilitate the safe and effective care of the patient population served and make equipment and supplies available to the unit as determined by hospital policy in accordance with the needs of the patients.
- (4) The licensee shall ensure that an emergency cart is readily available to the unit and contains appropriate drugs and equipment according to hospital policy. [-]The nursing manager shall check the cart, or the cart locking mechanism, every shift and after each use to assure that ~~any~~ items required for immediate patient care are in place in the cart and in usable condition.
- (5) The licensee shall ensure that the following support services are immediately available to the critical care unit on a 24-hour basis:
- (a) blood bank or supply;
  - (b) clinical laboratory; and
  - (c) radiology services.
- (6) If the licensee provides dialysis services, the dialysis services shall comply with the following sections of Rule R432-650~~[-End Stage Renal Disease Facility Rules]~~:
- (a) Section R432-650-8~~[Required Staffing]~~; and
  - (b) Section R432-650-13~~[Water Quality]~~.

**R432-100-16. Surgical Services.**

- (1)(a) The licensee shall integrate surgical services provided by the hospital with other departments or services of the hospital and specify in writing the relationship, objective, and scope of each surgical service.
- (~~a~~)b) A person appointed and authorized by the administrator shall provide administrative direction of surgical services.
- (~~b~~)c) A member[-] of the medical staff shall provide medical direction of surgical services.
- (~~e~~)d) A qualified registered nurse shall supervise the provision of surgical nursing care.
- (~~d~~)e) A qualified registered nurse shall direct and supervise the operating room suites. [-]The operating room suites supervisor shall have authority and responsibility for:
- (i) assuring that the planned procedure is within the scope of privileges granted to the physician;
  - (ii) maintaining the operating room register; and
  - (iii) other administrative functions, including serving on patient care committees.
- (~~e~~)f) The licensee shall establish a policy governing the use of obstetrical delivery and operating rooms to ensure that any patient with parturition imminent, or with an obstetrical emergency requiring immediate medical intervention to preserve the health and life of the ~~mother~~parent or ~~her~~the infant, is given priority over other obstetrical and non-emergent surgical procedures.
- (~~f~~)g) A qualified surgical assistant shall assist as needed in operations in accordance with hospital bylaws.

(~~g~~)h) A surgical technician or licensed practical nurse may serve as a scrub nurse under the direct supervision of a registered nurse, but may not function as a circulation nurse in the operating rooms, unless the scrub nurse is a registered nurse.

(~~h~~)i) An outpatient surgical patient may not be routinely admitted to the hospital as an inpatient. [-]The licensee shall complete a systematic review process to evaluate patients who require hospitalization after outpatient surgery.

(2) The licensee shall establish, control and consistently monitor a safe operating room environment that [~~complies with~~]ensures:

(a) surgical equipment including suction facilities and instruments is provided and maintained in good condition to assure safe and aseptic treatment of [~~any~~]surgical cases;

(b) traffic in and out of the operating room is controlled and there is no through traffic;

(c) there is a scavenging system for evacuation of anesthetic waste gasses; and

(d) the following equipment shall be available to the operating suite:

(i) a call-in system;

(ii) a cardiac monitor;

(iii) a ventilation support system;

(iv) a defibrillator;

(v) an aspirator; and

(vi) equipment for cardiopulmonary resuscitation.

(3) The administration of anesthetics shall conform to the requirements of [~~the Anesthesia Services of Rule~~]Section R432-100-17.

(4) Removal of surgical specimens shall conform with the requirements of [~~Laboratory and Pathology Services,~~]Section R432-100-

24.

#### **R432-100-17. Anesthesia Services.**

(1) The licensee shall provide facilities and equipment for the administration of anesthesia commensurate with the clinical and surgical procedures planned for the institution on a 24-hour basis.

(2) The hospital administrator shall appoint and authorize an individual to provide administrative direction of anesthesia services.

(3) A member of the medical staff shall provide the medical direction of anesthesia services.

(4) A member of the medical staff, including an anesthesiologist, other qualified physician, dentist, oral surgeon, or certified registered nurse anesthetist shall provide anesthesia care within the scope of their practice and license.

(5) A qualified physician, dentist or oral surgeon shall have documented training that includes the equivalent of 40 days preceptorship with an anesthesiologist and be able to perform at least the following:

(a) any procedure commonly used to make the patient insensate to pain during the performance of surgical, obstetrical, and other pain-producing clinical procedures;

(b) life support functions during the administration of anesthesia, including induction and intubation procedures; and

(c) provide pre-anesthesia and post-anesthesia management of the patient.

(6) The medical staff shall clearly define the responsibilities and privileges of the person administering anesthesia.

(7) The medical staff shall inform both the patient and the operating surgeon before surgery of who will be administering anesthesia.

(8) A Medicaid certified hospital licensee shall comply with the requirements of the [~~Code of Federal Regulations, Title~~]42 CFR [~~Part~~] 482.52 [~~Section~~](a) (2007) [~~Anesthesia Services~~].

(9) The licensee shall prohibit the use of flammable anesthetic agents for anesthesia or for the pre-operative preparation of the surgical field.

(10) The licensee shall ensure that anesthetic equipment is inspected and tested by the person administering anesthesia before use in accordance with hospital policy.

#### **R432-100-18. Emergency Care Service.**

(1)(~~a~~) Each licensee shall evaluate and classify itself to [~~indicate~~]show its capability in providing emergency care. Type I, II, or III represents acute care hospitals and critical access hospitals and Type IV category represents specialty hospitals.

(~~a~~)~~b~~) A Type I Acute or Critical Access Hospital licensee shall provide in-hospital support by members of the medical staff for:

(i) medical;

(ii) surgical;

(iii) orthopedic;

(iv) obstetric;

(v) pediatric; and

(vi) anesthesia services[~~7~~].

(~~b~~)~~c~~) The licensee shall ensure specialty consultation is available within 30 minutes, or two-way voice communication is available for the initial consultation.

(~~e~~)~~d~~) A Type III licensee shall ensure that specialty consultation is available by request of the attending medical staff member by transfer to a type I or type II hospital where care can be provided.

(2)(~~a~~) The licensee shall organize and staff the emergency service with qualified individuals based on the defined capability of the hospital.

(~~a~~)~~b~~) An individual appointed and authorized by the hospital administrator shall direct the emergency services.

(~~b~~)~~c~~) One or more members of the medical staff shall define in writing and provide medical direction of emergency services. The medical staff shall provide back-up and on-call coverage for emergency services and as needed for emergency specialty services.

## NOTICES OF PROPOSED RULES

(~~e~~d) A licensed practitioner is responsible for the evaluation and treatment of a patient who presents themselves or is brought to the emergency care area including:

- (i) an appropriate medical screening examination;
- (ii) stabilizing treatment; and
- (iii) if necessary for definitive treatment, an appropriate transfer to another medical facility that has agreed to accept the patient for care.

(~~d~~e) ~~[The priority by which persons seeking emergency care are seen by a physician may be determined by trained personnel using guidelines established by the emergency room director and approved by the medical staff.]~~ Trained personnel using guidelines by the emergency room director and approved by the medical staff may determine the priority that a physician sees a person seeking emergency care.

(~~e~~f) The licensee shall post rosters designating medical staff members on duty or on ~~[-]~~-call for primary coverage and specialty consultation in the emergency care area.

(~~f~~g) A designated registered nurse who is qualified by relevant training, experience, and current competence in emergency care shall supervise the care provided by ~~[any]~~ nursing service personnel in the department ~~[-]~~, including:

(i) ~~[F]~~the emergency nurse supervisor shall ensure that there is enough nursing service personnel for the types and volume of patients served ~~[-]~~;

(ii) ~~[F]~~type I and II emergency department licensees shall have at least one registered nurse with advanced cardiac life support certification, and enough other nursing staff assigned and on duty within the emergency care area ~~[-]~~; and

(iii) ~~[F]~~the emergency nurse supervisor shall participate in internal committee activities concerned with the emergency service.

(~~e~~h) The licensee shall ensure that the emergency service is integrated with other departments in the hospital.

(i) The licensee shall provide clinical laboratory services with the capability of performing any routine studies and standard analyses of blood, urine, and other body fluids. ~~[-The licensee shall ensure that a supply of blood is available 24 hours per day.]~~

~~[-(i) The licensee shall ensure that a supply of blood is available 24 hours a day.]~~

(k) The licensee shall ensure that diagnostic radiology services are available 24 hours ~~[per]~~ a day.

(~~h~~l) The licensee shall define, in writing, the duties and responsibilities of ~~[any]~~ personnel, including physicians and nurses, providing care within the emergency service area.

(3)(a) Each licensee shall define its scope of emergency services in writing and implement a plan for emergency care, based on community needs and on the capabilities of the hospital.

(~~a~~b) Each licensee shall comply with federal anti-dumping regulations as defined in the ~~[Code of Federal Regulations Title 351.101]~~ 19 CFR 351.101 (1998).

(~~b~~c) The licensee shall define the role of the emergency service in the hospital's disaster plans.

(~~e~~d) Each licensee shall have a communication system that permits instant contact with law enforcement agencies, rescue squads, ambulance services, and other emergency services within the community.

(~~d~~e) The licensee's emergency department policies and protocols shall address:

(i) the care, security, and control of prisoners or people to be detained for police or protective custody;

(ii) providing care to an unemancipated minor not accompanied by parent or guardian, or to an unaccompanied unconscious patient;

(iii) handling of hazardous materials and contaminated patients;

(iv) reporting of persons dead-on-arrival to the proper authorities including the legal requirements for the collection and preservation of evidence; and

(v) the evaluation and handling of alleged or suspected child or adult abuse cases.

(~~e~~f) The licensee shall develop criteria to alert emergency department and service personnel to possible child or adult abuse. ~~[-]~~The criteria shall address:

(i) suspected physical assault;

(ii) suspected rape or sexual molestation;

(iii) suspected domestic abuse of elders, spouses, partners, and children;

(iv) the collection, retention, and safeguarding of specimens, photographs, and other evidentiary materials; and

(v) visual and auditory privacy during examination and consultation of patients.

(~~f~~g) The licensee shall make a list available in the emergency department that outlines private and public community agencies and resources that provide, arrange, evaluate, and care for the victims of abuse.

(4) The licensee shall make reasonable and timely efforts to contact the guardian, parents, or next of kin of any unaccompanied minor, or any unaccompanied unconscious patient admitted to the emergency department.

### **R432-100-19. Perinatal Services.**

(1)(a) Each licensee shall designate its capability to provide perinatal, antepartum, labor, delivery, postpartum, and nursery care in accordance with Level I basic, Level II specialty, or Level III sub-specialty or tertiary care.

(~~a~~b) A qualified member of the hospital staff shall provide administrative, medical and nursing direction, and oversight for perinatal services according to each hospital's designated level of care.

(~~b~~c) The licensee shall ensure a qualified registered nurse is immediately available 24 hours ~~[per]~~ a day with enough trained competent staff to meet the designated level.

(~~e~~d) The licensee shall ensure support personnel are available to the perinatal care service according to each hospital's designated level of care.

(2) Each licensee shall establish and implement security protocols for perinatal patients.

(3) The perinatal department shall include facilities and equipment for antepartum, labor and delivery, nursery, postpartum, and optional birthing rooms.

(4) The licensee shall ensure that perinatal areas are located and arranged to avoid non-related traffic to and from other areas.

(5) The licensee shall isolate patients with infections or other communicable conditions. [-]The licensee may not use maternity rooms for patients other than maternity patients [~~in hospital policy~~].

(6) The licensee shall have at least one surgical suite for operative delivery.

(7) The licensee shall maintain and make immediately available, equipment and supplies for the [~~mother~~]parent and newborn, including:

(a) furnishings suitable for labor, birth, and recovery;

(b) oxygen with flow meters and masks or equivalent;

(c) mechanical suction and bulb suction;

(d) resuscitation equipment;

(e) emergency medications, intravenous fluids, and related supplies and equipment;

(f) a device to assess fetal heart rate;

(g) equipment to monitor and maintain the optimum body temperature of the newborn;

(h) a clock capable of showing seconds;

(i) an adjustable examination light; and

(j) a newborn warming unit with temperature controls that comply with Underwriters' Laboratories requirements. [-]The unit shall have capability for administering oxygen and suctioning.

(8) The licensee shall maintain a delivery room record keeping system for cross referencing information with other departments.

(9) If birthing rooms are provided, the licensee shall equip them in accordance with this section.

(10) The licensee shall ensure that the nursery includes facilities and equipment according to its designated level of care, including an individual bassinet for each infant, with space between bassinets as follows:

(a) Level I Basic: [-]Full Term or Well Baby Nursery 24 inches between bassinets;

(b) Level II Specialty: [-]Continuous Care Nursery four feet between bassinets; or

(c) Level III Sub-specialty: [-]Newborn Intensive Care Nursery four feet between bassinets.

(11) The licensee shall ensure the availability of the following equipment and supplies :

(a) an individual thermometer, or one with disposable tips, for each infant;

(b) a supply of medication immediately available for emergencies;

(c) a covered soiled-diaper container with removable lining;

(d) a linen hamper with removable bag for soiled linen other than diapers;

(e) a newborn warming unit with temperature controls that comply with Underwriters' Laboratories requirements;

(f) oxygen, oxygen equipment, and suction equipment;

(g) an oxygen concentration monitoring device;

(h) accurate scales; and

(i) a wall thermometer.

(12) The licensee shall maintain temperature between 70-80 degrees Fahrenheit in the nursery area.

(13) The licensee shall make infant formula storage space available that conforms to the manufacturer's recommendations. Only single-use bottles may be used for newborn feeding.

(14) The licensee shall provide a furnished suspect nursery or isolation area that has a separate hand washing facility and equipment and supplies to be used for any infant who:

(a) has a communicable disease;

(b) is delivered of an ill [~~mother~~]parent infected with a communicable disease;

(c) is readmitted after discharge from a hospital; or

(d) is delivered outside the hospital.

(15) The licensee shall:

(a) not attempt to delay the imminent, normal birth of a child;

(b) instill a prophylactic solution in the eyes of the infant within three hours of birth in accordance with Section R386-702-14;

(c) perform disease screening, including phenylketonuria (PKU), in accordance with Section [~~26-10-6 and Rule R398-1~~]26B-4-319;

and

(d) perform a newborn hearing screening in accordance with Rule R398-2.

#### **R432-100-20. Pediatric Services.**

(1)(a) If the licensee provides pediatric services, the services shall be under the direction of a member of the medical staff who is experienced in pediatrics and whose functions and scope of responsibility are defined by the medical staff.

([a]b) A pediatrics qualified registered nurse shall supervise pediatric nursing care and shall supervise the documentation of the implementation of pediatric patient care on an interdisciplinary plan of care.

([b]c) If the licensee provides a pediatric unit, the licensee shall ensure there is an interdisciplinary committee responsible for policy development and review of practice within the unit. [-]The committee shall include representatives from administration, the medical and nursing staff, and rehabilitative support staff.

NOTICES OF PROPOSED RULES

(~~e~~d) A licensee that admits pediatric patients shall have written policies and procedures specifying the criteria for admission to the hospital and conditions requiring transfer when indicated. [-]These policies and procedures shall consider and address the resources available at the hospital, specifically, in terms of personnel, space, equipment, and supplies.

(~~e~~) The licensee shall:

(i) assess each pediatric patient for maturity and development [~~Information~~] that incorporates information obtained from the maturity and development assessment [must be incorporated] into the plan of care;

(ii) establish and implement security protocols for pediatric patients; and

(iii) provide a safe area for diversional play activities.

(2) A licensee that admits pediatric patients shall have equipment and supplies in accordance with the hospital's scope of pediatric services.

(3) The licensee shall have written guidelines for the placement or room assignment of pediatric patients according to patient acuity under usual, specific, or unusual conditions within the hospital that shall address the use of:

(a) cribs;

(b) bassinets;

(c) beds; and

(d) proper use of restraints, bed rails, and other safety devices.

(4) The licensee shall place infant patients in beds where frequent observation is possible.

(5) The licensee shall ensure that pediatric patients other than infants are placed in beds to allow frequent observation according to each patient's assessed care needs.

(6) Personnel working with pediatric patients shall have specific training and experience relating to the care of pediatric patients.

(7) Orientation and in-service training provided by the licensee for pediatric care staff shall include pediatric-specific training on:

(a) drugs;

(b) toxicology;

(c) intravenous therapy;

(d) pediatric emergency procedures;

(e) infant and child nutrition;

(f) the emotional needs and behavioral management of hospitalized children;

(g) child abuse and neglect; and

(h) other topics according to the needs of the pediatric patients.

**R432-100-21. Respiratory Care Services.**

(1) A person authorized by the hospital administrator shall provide administrative direction of respiratory care services.

(2)(a) A member of the medical staff who has the responsibility and authority for the overall direction of respiratory care services shall direct the respiratory care service.

(~~a~~)b) When the scope of services warrants, a technical director who is registered or certified by the National Board For Respiratory Therapy Incorporated, or has the equivalent education, training, and experience shall supervise the respiratory care services.

(~~b~~)c) The technical director shall inform physicians about the use and potential hazards in the use of any respiratory care equipment.

(3)(a) The responsible licensed practitioner shall provide respiratory care services to patients in accordance with a written prescription that specifies the type, frequency, and duration of the treatment; and when appropriate, the type and dose of medication, the type of diluent, and the oxygen concentration.

(~~a~~)b) The licensee shall have equipment to perform any pulmonary function study or blood-gas analysis.

(~~b~~)c) The licensee shall ensure availability of resuscitation, ventilatory, and oxygenation support equipment in accordance with the needs of the patient population served.

**R432-100-22. Rehabilitation Therapy Services.**

(1)(a) If rehabilitation therapy services are provided by the licensee, the services may include physical therapy, speech therapy, and occupational therapy.

(~~a~~)b) A qualified, licensed provider who has clinical responsibility for the specific therapy service shall direct rehabilitation therapy services.

(~~b~~)c) Support personnel shall perform patient services that are commensurate with each person's documented training and experience.

(~~e~~d)(i) Rehabilitation therapy services may be initiated by a member of the medical staff or by a licensed rehabilitation therapist.

(~~i~~)ii) A physician's written request for services shall include reference to the diagnosis or condition for the treatment that is planned, and any contraindications.

(iii) The patient's physician shall retain responsibility for the specific medical problem or condition for that necessitated the referral.

(2) Rehabilitation therapy services provided to the patient shall include evaluation of the patient, establishment of goals, development of a plan of treatment, regular and frequent assessment, maintenance of treatment and progress records, and periodic assessment of the quality and appropriateness of the care provided.

**R432-100-23. Radiology Services.**

(1)(a) The licensee shall provide an organized radiology department offering services that are in accordance with the needs and size of the institution.



(~~a~~)b) A person appointed and authorized by the hospital administrator shall direct the radiology services.

(~~b~~)c)(i) A member of the medical staff shall provide medical direction of the department.

(~~i~~)ii) If a radiologist is not the medical director of the radiology services, the licensee shall retain the services of a radiologist.

(iii) If a radiologist provides services on less than a full-time basis, the time commitment shall allow the radiologist to complete the necessary functions to meet the radiological needs of the patients and the medical staff.

(~~e~~)d) The radiologist shall:

(i) maintain a quality control program that minimizes unnecessary duplication of radiographic studies and maximizes the quality of diagnostic information available;

(ii) develop technique charts that include part, thickness, exposure factors, focal film distances and either a grid or screen technique;

and

(iii) assure the availability of information regarding the purpose and yield of radiological procedures and the risks of radiation.

(~~e~~)e) The licensee shall ensure at least one licensed radiologic technologist is on duty or available as needed.

(~~e~~)f) Only a member of the medical staff or other person authorized by the hospital shall authorize the performance of diagnostic radiology services.

(~~f~~)g) If the licensee provides radiation oncology services, the following shall apply:

(i) physicians and staff who provide radiation oncology services have delineated privileges; and

(ii) the medical director of the radiation oncology services is a physician member of the medical staff who is qualified by education and experience in radiation oncology.

(2)(a) The licensee shall integrate radiologic medical with the hospital patient record.

(~~a~~)—Any requests]b) Requests for radiologic services shall contain the reasons for the examinations.

(~~b~~)c) The licensee shall file authenticated reports of these examinations in the patient's medical record as soon as possible.

(~~e~~)d) The licensee shall [~~retain~~]keep radiological film in accordance with hospital policy.

(~~e~~)e) If requested by the attending physician and if the quality of the radiograph permits, the radiology department may officially enter the interpretations of the radiologic examinations performed outside of the hospital in the patient's medical record.

(~~e~~)f)(i) The licensee shall file radiotherapy summaries as follows:

(~~i~~)A) in the patient's medical record;

(~~i~~)B)[~~a copy may be filed in the radiotherapy department;~~

\_\_\_\_\_ (~~iii~~)] forwarded to the referring physician; and

(~~i~~)C) documented in the medical record of the patient receiving radiotherapy for treatment or palliation of a malignancy and reflect the histologically substantiated diagnosis, unless otherwise justified.

\_\_\_\_\_ (ii) The licensee may additionally file radiotherapy summaries in the radiotherapy department.

**R432-100-24. Laboratory and Pathology Services.**

(1)(a) The licensee shall provide laboratory and pathology services that are in accordance with the needs and size of the institution.

(~~a~~)b) A person appointed and authorized by the hospital administrator shall provide administrative direction of laboratory and pathology services.

(~~b~~)c) A member of the medical staff shall provide medical direction of laboratory and pathology services.

(2) Laboratory and pathology services shall make Clinical Laboratory Inspection Amendments inspection reports, as required for plans review in Section R432-4-12 available for department review.

(3) Laboratories certified by a Health Care Financing Administration approved accrediting agency are in compliance with this section and the licensee shall ensure any accrediting agency inspection reports are available for department review.

**R432-100-25. Blood Services.**

(1)(a) The licensee's blood service shall establish and maintain an appropriate blood inventory in the hospital, have immediate access to community blood services or other institutions, or have an up-to-date list of donors, equipment, and trained personnel to draw and process blood.

(~~a~~)b) The licensee shall collect, store, and handle blood or blood components in such a manner that they [~~re~~]maintain potency and safety.

(~~b~~)c) The licensees shall properly process, test and label blood or blood components.

(2) The licensee shall ensure any donor center, transfusion service, or blood bank is accredited as follows:

(a) hospital blood banks and donor centers are accredited by the FDA; or

(b) hospital transfusion services are certified by the Health Care Financing Administration, or any accrediting organization approved by the Health Care Financing Administration.

(3) The licensee shall ensure that results of the accrediting organization survey are available for department review.

**R432-100-26. Pharmacy Services.**

(1) The pharmacy of a licensee currently accredited and conforming to the standards of Joint Commission on Accreditation of Healthcare Organizations (JCAHO) is determined to be in compliance with this section. [-]If a licensee is not accredited by JCAHO, then the licensee's pharmacy services shall comply with rules in this section.

(2) A licensed pharmacist shall direct the pharmacy department and service.

(3) The licensee shall employ personnel in keeping with the size and activity of the department and service.

NOTICES OF PROPOSED RULES

(4) If the licensee uses only a drug room and the size of the hospital does not warrant a full-time pharmacist, a consultant pharmacist may be employed.

(5) The pharmacist is responsible for developing, supervising, and coordinating ~~[any of]~~ the activities of the pharmacy.

(6) The licensee shall provide access to emergency pharmaceutical services.

(7) The licensee shall ensure the pharmacist is trained in the specific functions and scope of the hospital pharmacy.

(8) The licensee shall provide facilities for the safe storage, preparation, safeguarding, and dispensing of drugs and ensure the following:

(a) ~~[any]~~ floor-stocks are kept in secure areas in the patient care units;

(b) double-locked storage is provided for controlled substances and electronically controlled storage of narcotics is permitted if automated dispensing technology is utilized by the hospital;

(c) medications stored at room temperatures are maintained between 59 and 80 degrees Fahrenheit (F);

(d) refrigerated medications are maintained between 36 and 46 degrees F; and

(e) a current toxicology reference, and other references as needed for effective pharmacy operation and professional information are available.

(9) The licensee shall maintain records of the transactions of the pharmacy and medication storage unit and coordinated with other hospital records.

(10)(a) The licensee shall maintain a recorded and signed floor-stock controlled substance count once per shift or the facility that shall use automated dispensing technology in accordance with Section R156-17b-605.

(~~[a]~~b) A licensee that utilizes automated dispensing technology shall implement a system for accounting of controlled substances dispensed by the automated dispensing system.

(~~[b]~~c) The record shall list the name of the patient receiving the controlled substance, the date, type of substance, dosage, and signature of the person administering the substance.

(11)(a) The director of the pharmaceutical department or service shall develop written policies and procedures, in coordination with the medical staff, that pertain to the intra-hospital drug distribution system and the safe administration of drugs.

(~~[a]~~b) Medical staff shall administer drugs that are provided to floor units in accordance with hospital policies and procedures.

(~~[b]~~c) The medical staff, in coordination with the pharmacist, shall establish standard stop orders for ~~[any]~~ medications not specifically prescribed in regard to time or number of doses.

(~~[e]~~d) The pharmacist shall have full responsibility for dispensing of ~~[any]~~ drugs.

(~~[d]~~e) The licensee shall ensure there is a policy stating who may have access to the pharmacy or drug room when the pharmacist is not available.

(~~[e]~~f) The licensee shall ensure there is a documentation system for the accounting and replacement of drugs, including narcotics, to the emergency department.

(~~[f]~~g) The licensee shall ensure medication errors and adverse drug reactions are reported immediately in accordance with written procedures including notification of the practitioner who ordered the drug.

**R432-100-27. Social Services.**

(1)(a) If a licensee provides an organized social services department, a qualified social worker shall direct the social work services.

(~~[a]~~b) If a licensee does not have a full or part-time qualified social worker, the administrator shall designate an employee to coordinate and assure that social work services are provided to patients.

(~~[b]~~c) The licensee shall ensure the social worker, or designee is knowledgeable about community agencies, institutions, and other resources.

(2) If a licensee does not provide an organized social services department, the licensee shall obtain consultation from a qualified social worker to provide social work services.

(3) The licensee shall orient the staff to help the patient make the best use of available inpatient, outpatient, extended care, home health, and hospice services.

(4) The licensee shall integrate social services with other departments and services of the hospital.

**R432-100-28. Psychiatric Services.**

(1)(a) If the licensee provides psychiatric services, the licensee shall ensure the services are integrated with other departments or services of the hospital according to the nature, extent, and scope of service provided.

(~~[a]~~b) If the licensee does not provide psychiatric services, the licensee shall have procedures to transfer patients to a facility that can provide the necessary psychiatric services.

(~~[b]~~c) A person appointed and authorized by the hospital administrator shall provide administrative direction of psychiatric services.

(~~[e]~~d) A qualified physician who is a member of the medical staff shall define in writing and provide medical direction of psychiatric services.

(~~[d]~~e) Psychiatric services shall comply with the following sections of Rule R432-101~~[- Specialty Hospitals, Psychiatric]~~:

(i) Section R432-101-13~~[- Patient Security]~~;

(ii) Section R432-101-14~~[- Special Treatment Procedures]~~;

(iii) Section R432-101-17~~[- Admission and Discharge]~~;

(iv) Section R432-101-20~~[- Inpatient Services]~~;

(v) Section R432-101-21~~[- Adolescent or Child Treatment Programs]~~;

(vi) Section R432-101-22~~[- Residential Treatment Services]~~;

- (vii) ~~Section R432-101-23[Physical Restraints, Seclusion, and Behavior Management];~~
- (viii) ~~Section R432-101-24[Involuntary Medication Administration];~~ and
- (ix) ~~Section R432-101-35[Partial Hospitalization Services].~~

(2) If outreach services are ordered by a physician as part of the plan of care or hospital discharge plan, the outreach services may be provided in a clinic, physician's office, or the patient's home.

**R432-100-29. Substance Use Disorder Rehabilitation Services.**

(1)(a) A licensee may provide inpatient or outpatient substance use disorder rehabilitation services. ~~[-]A licensee that provides substance use disorder rehabilitation services shall staff the hospital to meet the needs of the patients or clients.~~

(~~[a]~~b) An individual appointed and authorized by the hospital administrator shall provide administrative direction.

(~~[b]~~c) A qualified physician who is a member of the medical staff shall define in writing and provide medical direction.

(~~[e]~~d) The licensee shall ensure nursing services are under the direction of a full-time registered nurse.

(~~[d]~~e) The licensee shall ensure substance use disorder counseling is under the direction of a licensed mental health therapist.

(~~[e]~~f) A licensed substance use disorder counselor may serve as the primary therapist under the direction of an individual licensed under ~~[the]~~ Title 58, Chapter 60 Mental Health Professional Practice Act~~[-Title 58, Chapter 60].~~

(~~[f]~~g) An interdisciplinary team including the physician, registered nurse, licensed mental health therapist, and substance use disorder counselor is responsible for program and treatment services. ~~[-]The patient or client may be included as a member of the interdisciplinary team.~~

(2) The licensee shall ensure that substance use disorder rehabilitation services include the following:

(a) detoxification care is available for the systematic reduction or elimination of a toxic agent in the body by use of rest, fluids, medication, counseling, or nursing care;

(b) individual, group, or family counseling is available;

(c) educational, employment, or other counseling is available as needed;

(d) treatment services that are coordinated with other hospital and community services to assure continuity of care through discharge planning and aftercare referrals~~[- Counselors may refer patients or clients to public or private agencies for substance use disorder rehabilitation, and employment and educational counseling; and];~~

~~[-~~(e) a counselor may refer patients or clients to public or private agencies for substance rehabilitation, and employment and educational counseling; and

(f) comprehensive assessment that is documented and includes a physical examination, a psychiatric and psychosocial assessment, and a social assessment.

(3) The licensee shall maintain the confidentiality of medical records of substance use disorder patients and clients according to the federal guidelines in the ~~[Code of Federal Regulations, Title 42, Part 2, Confidentiality of Substance Use Disorder Patient Records]~~ 42 CFR 2 (2024).

(4) The medical director or designee may direct the residential treatment services. ~~[-]Residential treatment services shall comply with [the Residential Treatment Services section of Rule-]Section R432-101-22.~~

**R432-100-30. Outpatient Services.**

(1) The licensee shall integrate outpatient care services with other departments or services of the hospital according to the nature, extent, and scope of services provided.

(2) Outpatient care shall meet the same standards of care that apply to inpatient care.

(3) Outpatient care includes hospital owned outpatient services, and hospital satellite services.

**R432-100-31. Respite Services.**

(1)(a) A remote-rural general acute licensee with a federal swing~~[-]bed~~ designation may provide respite services to provide intermittent, time-limited care to give primary caretakers relief from the demands of caring for an individual.

(~~[a]~~b) The licensee may provide respite care services and may ~~[only]~~ comply only with the requirements of this section.

(~~[b]~~c) If the licensee provides respite care to an individual for longer than 14 consecutive days, the licensee shall admit the individual as an inpatient and is subject to the requirements of this rule applicable to non-respite inpatient admissions.

(2) ~~[Respite]~~ The licensee may provide respite services ~~[may be provided]~~ at an hourly rate or daily rate.

(3) The licensee shall coordinate the delivery of respite services with the recipient of services, case manager, if one exists, and the family member or primary caretaker.

(4) The licensee shall document the individual's response to the respite placement and coordinate with ~~[any]~~ provider agencies to ensure an uninterrupted service delivery program.

(5) The licensee shall complete the following:

(a) a Level 1 pre-admission screening upon the person's admission for respite services; and

(b) a service agreement that will serve as the plan of care and identifies:

(i) prescribed medications;

(ii) physician treatment orders;

(iii) need for assistance for activities of daily living; and

(iv) diet orders.

(6) The licensee shall have written policies and procedures that are available to staff regarding the respite care patients to include:

(a) medication administration;

(b) notification of a responsible ~~[party]~~ person in the event of an emergency;

## NOTICES OF PROPOSED RULES

- (c) service agreement and admission criteria;
  - (d) behavior management interventions;
  - (e) philosophy of respite services;
  - (f) post-service summary;
  - (g) training and in-service requirement for employees; and
  - (h) handling patient funds.
- (7) The licensee shall provide a copy of the resident rights to the patient upon admission.
- (8) The licensee shall maintain a record for each patient who receives respite services that includes:
- (a) a service agreement;
  - (b) demographic information and patient identification data;
  - (c) nursing notes;
  - (d) physician treatment orders;
  - (e) records made by staff regarding daily care of the patient in-service;
  - (f) accident and injury reports; and
  - (g) a post-service summary.
- (9) If a patient has an advanced directive, the licensee shall file a copy of the directive in the record and inform staff.
- (10) The licensee shall ensure that retention and storage of records complies with this rule.
- (11) The licensee shall provide for confidentiality and release of information in accordance with this rule.

### **R432-100-32. Pet Therapy.**

- (1) If a licensee utilizes pet therapy, household pets such as dogs, cats, birds, fish, and hamsters may be permitted if:
- (a) pets are clean and disease free;
  - (b) the immediate environment of the pets is clean;
  - (c) small pets are kept in appropriate enclosures;
  - (d) ~~[P]~~pets that are not confined and are kept under leash control or voice control;
  - (e) ~~[P]~~pets that are kept at the hospital, or are frequent visitors, have current vaccinations, including rabies, as recommended by a licensed veterinarian; and
  - (f) a licensee with birds has procedures in place that protect patients, staff, and visitors from psittacosis.
- (2) A licensee that permits pets to remain overnight shall have policies and procedures for the care, housing and feeding, and for the proper storage of pet food and supplies.
- (3) The licensee ~~shall~~ may not permit pets in any area where their presence would create a significant health or safety hazard or nuisance to others.
- (4) The licensee ~~shall~~ may not permit pets in food preparation and storage areas.
- (5) Individuals caring for pets ~~shall~~ may not have patient care or food handling responsibilities.

### **R432-100-33. Dietary Service.**

- (1)(a) The licensee shall ensure that there is an organized dietary department under the supervision of a certified dietitian or a qualified individual who, by education or specialized training and experience, is knowledgeable in food service management. If the latter is head of the department, they shall retain a registered dietitian on a full-time, regular part-time, or consulting basis.
- (~~[a]~~)b) A person whose qualifications, authority, responsibilities, and duties are approved by the administrator shall provide direction of the dietary service. ~~[-]~~The director shall have the administrative responsibility for the dietary service.
- (~~[b]~~)c) If the services of a certified dietitian are used on less than a full-time basis, the time commitment shall permit performance of ~~[any]~~ necessary functions to meet the dietary needs of the patients.
- (~~[e]~~)d) The licensee shall ensure there are food service personnel to perform any necessary functions.
- (2) If dietetic services are provided by an outside provider, the outside provider shall comply with the standards of this section.
- (3)(a) The dietary department personnel shall provide a current diet manual, approved by the dietary department and the medical staff, to be available to dietary, medical, and nursing personnel.
- (~~[a]~~)b) The dietary department personnel shall meet the food and nutritional needs of patients, including therapeutic diets, in accordance with the orders of the physician responsible for the care of the patient, or if delegated by the physician, the orders of a qualified registered dietitian in consultation with the physician, as authorized by the medical staff and in accordance with facility policy.
- (~~[b]~~)c) Dietary department personnel shall write regular menus and modifications for basic therapeutic diets at least one week in advance and posted in the kitchen.
- (~~[e]~~)d) The menus shall provide for a variety of foods served in adequate amounts at each meal.
- (~~[e]~~)e) The dietary department shall serve at least three meals daily with not more than a 14-hour span between the evening meal and breakfast. ~~[-]~~If a substantial evening snack is offered, a 16-hour time span is permitted.
- (~~[e]~~)f) The dietary department shall provide a source of non-neutral exchanged water for use in preparation of no sodium meals, snacks, and beverages.
- (4)(a) The dietary department personnel shall comply with ~~[the Utah Department of Health and Human Services Food Service Sanitation]~~Rule R392-100.
- (~~[a]~~)b) The licensee shall ensure that the dietary facilities and equipment are in compliance with federal, state, and local sanitation and safety laws and rules.
- (~~[b]~~)c) The licensee shall control traffic of unauthorized individuals through food preparation areas.

- (5) The licensee shall maintain written reports of inspections by state or local health departments on file at the hospital and available for department review.
- (6) The dietitian or authorized designee is responsible for documenting nutritional information in the patient's medical record.
- (7) The licensee shall ensure that any dietary orders are transmitted in writing to the dietary department.

**R432-100-34. Telehealth Services.**

- (1) If a licensee participates in telehealth, it shall develop and implement policies governing the practice of telehealth in accordance with the scope and practice of the hospital and in accordance with Section 26B-4-704.
- (2) The licensee's telehealth policies shall address security, access, and retention of telemetric data.
- (3) The licensee's telehealth policies shall define the privileging of physicians and allied health professionals who participate in telehealth.

**R432-100-35. Medical Records.**

(1)(a) The licensee shall establish a medical records department or service that is responsible for the administration, custody, and maintenance of medical records.

([a]b) The hospital administrator shall establish administrative direction of the medical records department and in accordance with the organizational structure and policies of the hospital.

([b]c) The licensee shall retain the technical services of either a registered health information administrator or a registered health information technician through employment or consultation. [-]If retained by consultation, the individual shall visit at least quarterly and document visits through written reports to the hospital administrator.

(2)(a) The licensee shall provide secure storage, controlled access, prompt retrieval, and equipment and facilities to review medical records.

([a]b) The license shall ensure medical records are available for use or review by:

- (i) members of the medical and professional staff;
- (ii) authorized hospital personnel and agents;
- (iii) people authorized by the patient through a consent form; and
- (iv) department representatives to determine compliance with licensing rules.

([b]c) Medical records may be stored in multiple locations if the record can be retrieved or accessed in a reasonable time period.

([e]d) If computer terminals are utilized for patient charting, the licensee shall have policies governing access and identification codes, security, and information retention.

([d]e) The licensee shall index a hospital medical record according to diagnosis, procedure, demographic information, and physician or licensed health practitioner and ensure the index is current within six months following discharge of the patient.

([e]f) Original medical records are the property of the licensee and ~~shall~~ may not be removed from the control of the licensee or the licensee's agent as defined by policy, except by court order or subpoena.

([f]g) The licensee shall manage medical records for individuals who have received or requested admission to an alcohol or drug program in accordance with ~~[the Code of Federal Regulations, Title 42, Part 2, Confidentiality of Substance Use Disorder Patient Records]~~ 42 CFR 2 (2024).

(3)(a) The licensee shall ensure that ~~any~~ medical record entries are legible, complete, authenticated, and dated by the person responsible for ordering the service, providing, or evaluating the service, or making the entry. [-]The author shall review prepared transcriptions of dictated reports, evaluations, and consultations before authentication.

([a]b) The authentication may include written signatures, computer key, or other methods approved by the governing body and medical staff to identify the name and discipline of the person making the entry.

([b]c) Use of computer key or other methods to identify the author of a medical record entry may not be assignable or delegated to another person.

([e]d) The licensee shall maintain a current list of individuals approved to use the methods of authentication. [-]Hospital policy shall identify sanctions for the unauthorized or improper use of computer codes.

([d]e) Qualified personnel shall accept and transcribe verbal orders for the care and treatment of the patient and authenticate them within 30 days of the patient's discharge.

(4) The licensee shall ensure;

~~(a) medical records are organized according to hospital policy~~ ~~and the following~~;

([a]b) medical records are reviewed at least quarterly for completeness, accuracy, and adherence to hospital policy;

([b]c) records of discharged patients are collected, assembled, reviewed for completeness, and authenticated within 30 days of the patient's discharge;

([e]d) medical records are ~~retained~~ kept for at least seven years and medical records of minors are kept until the age of 18 plus four years, but in no case less than seven years[-];

([d]e) the licensee may destroy medical records after ~~retaining~~ keeping them for the minimum period~~[-of time]~~, and [-]before destroying medical records, the licensee shall notify the public by publishing a notice in a newspaper of statewide distribution a minimum of once per week for three consecutive weeks to allow a former patient to access their records;

([e]f) the licensee shall permanently ~~retain~~ keep a master patient or person index that shall include:

- (i) the patient name;
- (ii) the medical record number;
- (iii) the date of birth;

NOTICES OF PROPOSED RULES

(iv) the admission and discharge dates; and

(v) the name of each attending physician~~[-]; and~~

~~(f)g~~ if a licensee ceases operation, the licensee shall provide secure, safe storage, and prompt retrieval of any medical records, patient indexes, and discharges for the period specified in Subsection R432-100-~~[34]35(4)(e); and~~~~d~~.

~~(g)the~~~~5~~ The licensee may arrange for storage of medical records with another hospital, or an approved medical record storage facility, or may return patient medical records to the attending physician if the physician is still in the community.

~~(5)6~~ The licensee shall establish and maintain a complete medical record for each patient admitted, or who receives hospital services. Emergency and outpatient medical records shall contain documentation of the service provided and other pertinent information in accordance with hospital policy.

~~(6)7~~ The licensee shall ensure that each medical record contains:

(a) patient identification and demographic information to include at least the patient's name, address, date of birth, sex, and emergency contact information;

(b) initial or admitting medical history, physical and other examinations or evaluations. ~~[-]~~Recent histories and examinations may be substituted if updated to include changes that reflect the patient's current status;

(c) admitting, secondary, and primary diagnoses;

(d) results of consultative evaluations and findings by individuals involved in the care of the patient;

(e) documentation of complications, hospital acquired infections, and unfavorable reactions to medications, treatments, and anesthesia;

(f) properly executed informed consent documents for any procedures and treatments ordered for, and received by, the patient;

(g) documentation that the facility requested of each admitted person whether the person has initiated an advanced directive as defined in the Title 75, Chapter 2a, Advance Health Care Directive Act;

(h) practitioner orders, nursing notes, reports of treatment, medication records, laboratory and radiological reports, vital signs, and other information that documents the patient condition and status; and

(i) a discharge summary including outcome of hospitalization, disposition of case with an autopsy report when indicated, or provisions for follow-up.

~~(7)8~~ A medical record of a deceased patient shall contain a completed Inquiry of Anatomical Gift form or a modified hospital death form that has been approved by the department, as required by Title 26B, Chapter ~~[28]8~~, Revised Uniform Anatomical Gift Act.

~~(8)9~~ A medical record of a surgical patient shall contain:

(a) a pre-operative history and physical examination;

(b) surgeon's diagnosis;

(c) an operative report describing a description of findings;

(d) an anesthesia report including dosage and duration of any anesthetic and pertinent events during the induction, maintenance, and emergence from anesthesia;

(e) the technical procedures used;

(f) the specimen removed;

(g) the post-operative diagnosis;

(h) the name of the primary surgeon; and

(i) assistants written or dictated by the surgeon within 24 hours after the operation.

~~(9)10~~ A medical record of an obstetrical patient shall contain:

(a) a relevant family history;

(b) a pre-natal examination;

(c) the length of labor and type of delivery with related notes;

(d) the anesthesia or analgesia record;

(e) the Rh status and immune globulin administration when indicated;

(f) a serological test for syphilis; and

(g) a discharge summary for complicated deliveries or final progress note for uncomplicated deliveries.

~~(10)11~~ A Medical record of a newborn infant shall contain the following documentation in addition to the requirements for obstetrical medical records:

(a) a copy of the ~~[mother]parent~~'s delivery room record. ~~[-]~~In adoption cases where the identity of the ~~[mother]parent~~ is confidential, the licensee shall include and access the ~~[mother]parent~~'s according to hospital policy;

(b) the date and hour of birth;

(c) period of gestation;

(d) gender;

(e) reactions after birth;

(f) delivery room care;

(g) temperature and weight;

(h) time of first urination;~~[-and]~~

(i) number, character, and consistency of stools;

(j) a record of the physical examination completed at birth and discharge, record of ophthalmic prophylaxis, and the identification number of the newborn screening kit, referred to in Rule R398-~~[4]2~~;

(k) the authorization by the parents, state agency, or court authority if the infant is discharged to any person other than the infant's parents; and

(l) the record and results of the newborn hearing screening according to Sections 26B-1-432 and R398-2-6.

~~(14)~~12) The licensee shall integrate an emergency department patient medical record into the hospital medical record, that includes~~(s)~~:

- (a) time and means of arrival;
- (b) emergency care given to the patient before arrival;
- (c) history and physical findings;
- (d) lab and x-ray reports;
- (e) diagnosis;
- (f) record of treatment; and
- (g) disposition and discharge instructions.

~~(12)~~13) A medical-social services patient record shall include:

- (a) a medical-social or psychosocial study of a referred inpatient and outpatient;
- (b) the financial status of the patient;
- (c) social therapy and rehabilitation of the patient;
- (d) an environmental investigation for an attending physician; and
- (e) any cooperative activities with community agencies.

~~(13)~~14) A medical record of a patient receiving rehabilitation therapy shall include:

- (a) a written plan of care appropriate to the diagnosis and condition;
- (b) a problem list; and
- (c) short and long term goals.

~~(14)~~15) The medical records department shall maintain records, reports and documentation of admissions, discharges, and the number of autopsies performed.

~~(15)~~16) The medical records department shall maintain vital statistic registries for births, deaths, and the number of operations performed. [-]The medical records department shall report vital statistics data in accordance with the Title 26B, Chapter 8, Vital Statistics Act.

#### **R432-100-36. Central Supply Services.**

(1) The licensee shall ~~qualify~~ensure a central supply service supervisor is qualified for the position by ~~their~~education, training, and experience.

(2)(a) The licensee shall provide central service space and equipment for the cleaning, disinfecting, packaging, sterilizing, storing, and distribution~~(g)~~ of medical and surgical patient care supplies.

~~(a)~~b) The licensee shall ensure ~~that~~the hospital central service area provides ~~for~~the following:

(i) a decontamination area that is separated by a barrier or divider to allow the receiving, cleaning, and disinfection functions to be performed separately from ~~any~~other central service functions;

(ii) a linen assembly or pack-making area that has ventilation to control lint and the linen assembly or pack-making area is separated from the general sterilization and processing area; and

(iii) ~~the~~a sterilization area that contains hospital sterilizers with approved controls and safety features and the licensee ensures:

(A) the accuracy of the sterilizers' performance is checked by a method that includes a permanent record of each run;

(B) the sterilizers are tested by biological monitors at least weekly; and

(C) if gas sterilizers are used, they are inspected, maintained, and operated in accordance with the manufacturer's recommendations.

(3) The licensee shall separate the storage area into sterile and non-sterile areas and ensure the following:

(a) the storage area has temperature and humidity controls;

(b) the storage area is free of excessive moisture and dust; and

(c) outside shipping cartons are not stored in this area.

(4) Staff shall wipe countertops and tables with a broad spectrum disinfectant during each shift that the central service area is staffed.

(5) Staff shall issue and launder any apparel worn in central supply according to hospital policy.

#### **R432-100-37. Laundry Service.**

(1) A person whose qualifications, authority, responsibilities, and duties are approved by the administrator shall direct the laundry service.

(2)(a) A licensee using a commercial linen service shall require written assurance from the commercial service that standards in this subsection are maintained.

~~(a)~~b) Clean linen shall remain completely packaged and protected from contamination until received by the licensee.

~~(b)~~c) The use of a commercial linen service does not relieve the licensee from its quality improvement responsibilities.

(3) A licensee that maintains an in-house laundry service shall provide equipment, supplies, and staff to meet the needs of the patients and shall ensure:

(a) soiled linen is collected in a manner to minimize cross-contamination ~~[and containers are properly closed as filled and before further transport]~~as follows;

(i) containers are properly closed as filled and before further transport;

(ii) soiled linen is sorted only in a sorting area;

(iii) handwashing is required after handling soiled linen and before handling clean items;

~~(iii)~~iv) employees handling soiled linen wear protective clothing that is removed before leaving the soiled work area; and

~~(iv)~~v) soiled linen is transported separately from clean linen; and

## NOTICES OF PROPOSED RULES

(b) ~~[F]~~the licensee ~~[shall maintain]~~maintains a supply of clean linen as follows;

(i) clean linen is handled and stored in a manner to minimize contamination from surface contact or airborne deposition;

(ii) clean linen is stored in enclosed closet areas or carts; and

(iii) clean linen is covered during transport~~[-]~~;

(4) The licensee shall launder employee scrubs that are worn in the following areas:

(a) surgical areas; and

(b) other areas as required by ~~[the Occupational Health and Safety Act in the Code of Federal Regulations, Title 29, Part 1910.264]~~29 CFR 1910.264 (1978).

(5) If hospital employee scrubs are designated as uniforms that may be worn to and from work, the licensee shall develop and implement policies and procedures defining the scope and usage of scrubs as uniforms including hospital storage of employee scrubs, and hospital-provided scrubs in the event of contamination.

### **R432-100-38. Housekeeping Services.**

(1) The licensee shall provide housekeeping services to maintain a clean, safe, sanitary, and healthful environment in the hospital.

(2) If the licensee contracts for housekeeping services with an outside service, the licensee shall secure a signed and dated agreement that details the services provided.

(3) The licensee shall provide safe and secure storage of cleaners and chemicals and keep cleaners and chemicals stored in areas that may be accessible to patients secure in accordance with hospital policy.

(4) The licensee shall ensure that storage and supplies in each area of the hospital are stored at least four inches off the floor, and at least 18 inches below the lowest portion of the sprinkler system.

(5) Personnel engaged in housekeeping or laundry services ~~[shall]~~may not be engaged simultaneously in food service or patient care.

(6) If personnel work in food or direct patient care services, the licensee shall establish and follow a hospital policy to govern the transition from housekeeping services to patient care.

### **R432-100-39. Maintenance Services.**

(1)~~(a)~~ The licensee shall provide maintenance services to ensure that hospital equipment and grounds are maintained in a clean and sanitary condition and in a state of good repair for the safety and well-being of patients, staff, and visitors.

~~(a)~~~~(b)~~ The administrator shall employ a person qualified by experience and training to oversee hospital maintenance.

~~(b)~~~~(c)~~ If the licensee contracts for maintenance services, the licensee shall secure a signed and dated agreement that details the services provided.

~~(e)~~~~(d)~~ The licensee shall ensure a pest-control program is conducted to ensure the hospital is free from vermin and rodents.

~~(e)~~~~(e)~~ The licensee shall maintain entrances, exits, steps, ramps, and outside walkways in a safe condition regarding snow, ice, and other hazards.

(2) The licensee shall test, calibrate and maintain any patient care equipment in accordance with the specifications from the manufacturer and make testing frequency and calibration documentation, whether conducted internally or by an outside agency, available for department review.

(3) The licensee shall ensure hot water at public and patient faucets is delivered between 105 to 120 degrees F.

### **R432-100-40. Emergency Operations Plan.**

(1) The licensee shall have an emergency operations plan for the maintenance of a safe environment in the event of an emergency or disaster that overwhelms the facility.

(2) The administrator or designee is responsible for the development of the plan, coordinated with applicable state and local emergency response partners and agencies. ~~[-]~~The plan shall:

(a) be in writing and made available to any hospital staff;

(b) be reviewed and updated as necessary and be available for review by the department;

(c) delineate individuals who will be in charge in the event of any significant emergency;

(d) include readily available lists of emergency partners with multiple contact options, emergency contact lists are updated and maintained regularly by the licensee;

(e) delineate the person with decision-making authority to activate the emergency operations plan;

(f) address risks and threats identified in the licensee's annual hazard vulnerability analysis;

(g) have an evacuation plan;

(h) address delivery of essential care and services when additional persons are present at the hospital during an emergency;

(i) address delivery of essential care and services to hospital occupants utilizing crisis standards of care when staff is reduced by an emergency; and

(j) address planning, mitigation, response, and recovery for each of the following areas:

~~(k)~~~~(i)~~ emergency communications;

(ii) resources and assets;

(iii) safety and security;

(iv) staff responsibilities;

(v) utility management; and

(vi) patient clinical and supportive activities.

(3) The hospital administrator and the board shall approve the emergency operations plan.



- (4) The licensee shall document any emergency incidents and responses.
- (5) The licensee shall hold disaster drills or exercises twice yearly according to threats identified in the facility's annual hazard vulnerability analysis.
- (6) The licensee shall have a fire emergency evacuation plan written in consultation with qualified fire safety personnel. This plan may be included in the facility's emergency operations plan.
- (7) The licensee shall post evacuation routes posted in prominent locations throughout the hospital.
- (8) The licensee shall document fire drills and ensure fire drill documentation is in accordance with Rule R710-4~~[, State of Utah Fire Prevention Board]~~.
- (9)(a) A licensee may exceed its licensed capacity by up to 20% in response to any incident that overwhelms the facility.
- (~~a~~)~~b~~) A hospital that exceeds its licensed capacity under this provision shall notify the department within 72 hours of exceeding its licensed capacity.
- (~~b~~)~~c~~) The licensee shall seek department approval to exceed 20% above licensed capacity.
- (~~e~~)~~d~~) The department may direct that the licensee reduce its patient census to its licensed capacity at any time.

**R432-100-41. Penalties.**

~~[Any person who violates any provision of this rule may be subject to the penalties enumerated in Section 26B-2-208 and Rule R432-3 and be charged with violation of a class A misdemeanor as provided in Section 26B-2-216.] Any person who violates this rule may be subject to the penalties in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.~~

**KEY: health care facilities**

**Date of Last Change:** ~~July 6, 2023~~ 2024

**Notice of Continuation:** September 1, 2020

**Authorizing, and Implemented or Interpreted Law:** 26B-1-202; 26B-2-104; 26B-2-202

NOTICE OF SUBSTANTIVE CHANGE		
<b>TYPE OF FILING:</b> Amendment		
<b>Rule or Section Number:</b>	<b>R525-8</b>	<b>Filing ID: 56707</b>

**Agency Information**

<b>1. Title catchline:</b>	Health and Human Services, Substance Abuse and Mental Health, State Hospital	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W, 3rd Floor	
<b>City, state:</b>	Salt Lake City, UT	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Thomas Dunford	801-538-4181	tdunford@utah.gov
Dallas Earnshaw	801-344-4200	dearnshaw@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R525-8. Forensic Mental Health Facility
<b>3. Purpose of the new rule or reason for the change:</b>
Following the reorganization of the Department of Health and Human Services, this proposed amendment is necessary to update the title and statutory rulemaking authority for this rule.
<b>4. Summary of the new rule or change:</b>
This proposed amendment updates the rule title and statutory rulemaking authority.
It additionally makes style and formatting changes in compliance with the Rulewriting Manual for Utah.

**Fiscal Information**

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

**A) State budget:**

This amendment is not anticipated to result in any additional cost or savings to the state budget, as it updates the rule's statutory authority and makes style and formatting changes in accordance with the Rulewriting Manual for Utah.

It does not add, remove, or modify any process that would have a fiscal impact or introduce a cost or savings.

**B) Local governments:**

This amendment is not anticipated to result in any additional cost or savings to local governments, as it updates the rule's statutory authority and makes style and formatting changes in accordance with the Rulewriting Manual for Utah.

It does not add, remove, or modify any process that would have a fiscal impact or introduce a cost or savings.

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

This amendment is not anticipated to result in any additional cost or savings to small businesses, as this rule does not apply to small to businesses.

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

This amendment is not anticipated to result in any additional cost or savings to non-small businesses, as this rule does not apply to non-small to 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 amendment is not anticipated to result in any additional cost or savings to persons other than small businesses, non-small businesses, state, or local government entities. It updates the rule's statutory authority and makes style and formatting changes in accordance with the Rulewriting Manual for Utah.

It does not add, remove, or modify any process that would have a fiscal impact or introduce a cost or savings.

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

There are no compliance costs are associated with this amendment, as it updates the rule's statutory authority and makes style and formatting changes in accordance with the Rulewriting Manual for Utah and does not add, remove, or modify any process that would have a fiscal impact or introduce a cost or savings.

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head comments on fiscal impact and approval of regulatory impact analysis:**  
The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis.

**Citation Information**

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

Subsection 26B-1-202(1)	Subsection 26B-5-371(2)	Section 26B-5-372
Section 77-16a-202	Section 77-16a-203	Section 77-16a-204
Section 77-18-106		

**Public Notice Information**

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

**A) Comments will be accepted until:** 10/01/2024

**9. This rule change MAY become effective on:** 10/08/2024

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	08/12/2024
---	-------------------------------------	--------------	------------

**R525. Health and Human Services, Substance Abuse and Mental Health, State Hospital.**

**R525-8. Forensic Mental Health Facility.**

**R525-8-1. Authority and Purpose.**

(1) This rule is adopted under the authority of [~~Sections 62A-15-105 and 62A-15-603~~]Subsection 26B-1-202(1), which grants the Department of Health and Human Services the authority to adopt rules that may be considered necessary for providing health and human services to the people of Utah.

(2) This rule explains the criteria for admission to beds for the forensic mental health facility at the Utah State Hospital (USH).

**R525-8-2. Forensic Bed Admissions.**

People are identified for admission to the forensic mental health facility based on current psychiatric need, legal status, and the date of their court order into the Department of Health and Human Services custody. [-]Highest priority shall be given to those cases which are specifically required to be admitted to the USH by Utah law.

**R525-8-3. No Admission Because of Capacity.**

When capacity in the forensic mental health facility has been met, the [~~hospital~~]USH [~~shall~~]may not admit any persons to the forensic mental health facility until a bed becomes available. [-]In such an event, the [~~hospital~~]USH will work cooperatively with the court to find a resolution.

**KEY: forensic, mental health, facilities**

**Date of Last Change: 2024**[~~May 12, 2022~~]

**Notice of Continuation: April 5, 2021**

**Authorizing, and Implemented or Interpreted Law: [62A-15-105; 62A-15-603; 62A-15-605.5; 62A-15-902(2)(e); ]26B-1-202; 26B-5-371(2); 26B-5-372; 77-16a-202; 77-16a-203; 77-16a-204; 77-18-106**[~~(13)~~]

**NOTICE OF SUBSTANTIVE CHANGE**

<b>TYPE OF FILING:</b> New		
<b>Rule or Section Number:</b>	<b>R652-21</b>	<b>Filing ID: 56686</b>

**Agency Information**

<b>1. Title catchline:</b>	Natural Resources, Forestry, Fire and State Lands	
<b>Building:</b>	Department of Natural Resources	
<b>Street address:</b>	1594 W North Temple	
<b>City, state:</b>	Salt Lake City, UT	
<b>Mailing address:</b>	1594 W North Temple, Ste 3520	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-5703	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Emily Hawley	385-441-6667	ehawley@utah.gov
Brianne Emery	385-239-0791	brianneemery@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R652-21. Great Salt Lake Mineral Extraction
<b>3. Purpose of the new rule or reason for the change:</b>
This rulemaking is in accordance with H.B. 513 passed in the 2023 General Session and H.B. 453, Great Salt Lake Revisions, passed in the 2024 General Session, which prescribe the Division of Forestry, Fire and State Lands (Division) to make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
<b>4. Summary of the new rule or change:</b>
This rule serves to create a process for the issuance of royalty agreements and surface use authorizations for the extraction of lithium and other minerals from the waters and/or brines of the Great Salt Lake.  This rule also encourages operators to implement innovative extraction technologies, provides the Division with regulatory mechanisms to ensure mineral extraction is done in a way that prevents negative impacts to the Great Salt Lake and promotes the maximum recovery of royalties to the State of Utah.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The proposed rule is not anticipated to have aggregated anticipated costs or savings to the state budget beyond that already described in the Fiscal Note to H.B. 513 (2023) and H.B. 453 (2024).
<b>B) Local governments:</b>
The Division does not anticipate aggregated costs or savings to local governments due to local governments not having a direct fiscal connection to the proposed rule.  This new rule applies to new operators or existing operators developing new minerals. Compliance costs will be dependent on the methodology and technology utilized. Due to emerging and new technologies, determining compliance costs is inestimable.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
Aggregated anticipated cost or savings to small businesses is inestimable due to mining of metalliferous compounds being dependent on the methodology and technology utilized and cannot take into account emerging and new technologies. This cost may also fluctuate based on whether or not the business enters into a voluntary agreement with the Division and current lake conditions, per H.B. 453 (2024).  Additionally, the number of small businesses to which this rule will apply is not readily available and may fluctuate depending on interest.

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

Aggregated anticipated cost or savings to non-small businesses is inestimable due to mining of metalliferous compounds being dependent on the methodology and technology utilized and cannot take into account emerging and new technologies. This cost may also fluctuate based on whether or not the business enters into a voluntary agreement with the Division and current lake conditions, per H.B. 453 (2024).

Additionally, the number of non-small businesses to which this rule will apply is not readily available and may fluctuate depending on interest.

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

It is not anticipated that there will be any costs or savings to persons other than small businesses, non-small businesses, state, or local government entities due to "persons" not having a direct fiscal connection to the proposed rule.

This rule primarily applies to businesses seeking to extract minerals from the Great Salt Lake.

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

The proposed rule is not anticipated to have compliance costs for affected persons beyond that already described in the Fiscal Note to H.B. 513 (2023) and H.B. 453 (2024).

This new rule applies to new operators or existing operators developing new minerals. Compliance costs will be dependent on the methodology and technology utilized. Due to emerging and new technologies, determining compliance costs is inestimable.

**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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.

**Citation Information**

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

Title 63 G, Chapter 3	Section 65A-17-203	Section 65A-17-103
-----------------------	--------------------	--------------------

NOTICES OF PROPOSED RULES

Section 65A-10-204	Section 65A-17-101	Section 65A-17-201
Section 65A-17-303	Section 65A-17-301	Section 65A-17-202
Section 65A-17-306	Section 65A-10-205	Section 65A-17-302
Section 65A-1-4	Section 65A-17-304	Section 65A-17-305
Section 65A-6-2	Section 65A-6-4	

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	10/01/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	10/10/2024
---	------------

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Joel Ferry, Executive Director	<b>Date:</b>	08/01/2024
---	--------------------------------	--------------	------------

**R652. Natural Resources, Forestry, Fire and State Lands.**

**R652-21. Great Salt Lake Mineral Extraction.**

**R652-21-100. Authority.**

Rule R652-21 is promulgated pursuant to Sections 65A-1-4, 65A-6-2, 65A-6-4, 65A-17-102, 65A-17-201, 65A-17-202, 65A-17-203, 65A-17-302, 65A-17-303, 65A-17-304, and 65A-17-306.

**R652-21-100.1. Purpose.**

The purpose of Rule R652-21 is to implement rules consistent with the purpose and intent of the Legislature's amendments to Section 65A-6-4 regarding Great Salt Lake Elements and Minerals and the enactment of Title 65A, Chapter 17, Great Salt Lake Preservation Act.

**R652-21-200. Definitions.**

- (1) "Applicant" means any person submitting a Feasibility Application or Operations Application to the division.
- (2) "Base Royalty Rate" means the royalty rate established, by the division, for a Great Salt Lake Element or Mineral before any Royalty Rate Reductions are applied.
- (3) "Biota" means all plants, fungi, animals, protists, bacteria, and archaea in Great Salt Lake.
- (4) "Bond" or "Bonding" means both full-cost bonding over sovereign lands, executed with the division, and reclamation bonding, executed with the Division of Oil, Gas & Mining.
- (5) "Brine Depletion" means the volume of Brine Water consumed through processing and operations, calculated by subtracting the volume of Returned Water from the volume of Brine Water.
- (6) "Brine Water" means water diverted from Great Salt Lake.
- (7) "Chemistry" means the properties, composition, and structure of the elements and compounds, and interactions thereof, making up the waters, brines, and substrate of Great Salt Lake.
- (8) "Commercial Viability" means the Applicant:
  - (a) provides proof of all pending or acquired water rights and related appropriations necessary for operations or a detailed plan demonstrating how the Applicant will acquire water rights necessary for operations once in receipt of an Operations Royalty Agreement;
  - (b) provides the requisite information to substantiate the efficacy and longevity of the technology selected for operations;
  - (c) provides the requisite information to substantiate an operation with a Life of Mine of at least 20 years;
  - (d) provides the requisite financial information to substantiate the Applicant is capable of fulfilling its royalty obligations for the proposed Life of Mine;
  - (e) has obtained any easements, permits, approvals, agreements, or other documents required for the entirety of operations for the Life of Mine;
  - (f) has the requisite Bonding in place for upland property and sovereign lands; and
  - (g) demonstrates the ability to produce, at commercial scale, a First Marketable Product, as defined by Rule R652-21.
- (9) "Commercially Viable Technology" means the same as that term is defined in Subsection 65A-17-101(2).
- (10) "Common Source of Supply" means the same as that term is defined in Subsection 65A-17-101(3).
- (11) "Cooperative Agreement" means an agreement between two or more Operators to coordinate regarding the extraction of Great Salt Lake Elements and Minerals.
- (12) "Correlative Right" means the same as that term is defined in Subsection 65A-17-101(4).
- (13) "Emergency Trigger" means the same as that term is defined in Subsection 65A-17-101(5).

- (14) "Emergent Technology" means a new technology or a new use, modification, or improvement of an existing technology that has not been deployed as an extractive method for mineral recovery on Great Salt Lake before May 3, 2023. For purposes of this definition, "Emergent Technologies" is synonymous with "Innovative Technologies."
- (15) "Evaporative Technology" means a mineral operation that partially or wholly utilizes engineered evaporative processes at any stage of the extractive process to develop or extract a Great Salt Lake Element or Mineral from the waters, brines, or substrates of Great Salt Lake.
- (16) "Externally Sourced Water" means water diverted from sources upland or above the Great Salt Lake Meander Line and used for processing and operations.
- (17) "Feasibility Assessment" means the process, before the execution of an Operations Royalty Agreement with the division, for determining whether a Great Salt Lake Operator can demonstrate Commercial Viability and the proposed operation will have no Negative Impacts to Great Salt Lake Biota and Chemistry.
- (18) "Final Royalty Rate" means the royalty established in the Operations Royalty Agreement, by the division, after applying all relevant and proven Royalty Rate Reductions. The Final Royalty Rate shall be a Variable-Rate Royalty.
- (19) "First Marketable Product" means the form of a Great Salt Lake Element or Mineral, as determined by the division, to which the Base Royalty Rate attaches.
- (20) "Great Salt Lake Element or Mineral" means:
- (a) a rare earth element;
  - (b) a trace element or mineral; or
  - (c) a chemical compound that includes a rare earth element or trace element or mineral.
- (21) "Great Salt Lake Meander Line" means the same as that term is defined in Subsection 65A-17-101(7).
- (22) "Great Salt Lake Mineral Resource" means any Great Salt Lake Element or Mineral that can be produced in Paying Quantities.
- (23) "Great Salt Lake Natural Resources" means the Biota, water resources and water quality, the fishery and recreational resources, the wetlands and wildlife resources, and any other naturally occurring resource within the Great Salt Lake Meander Line.
- (24) "Great Salt Lake Operator" or "Operator" means a person or business entity, qualified to do business in Utah pursuing the extraction of a Great Salt Lake Element or Mineral.
- (25) "Healthy Physical and Ecological Condition" means the same as that term is defined in Subsection 65A-17-101(9).
- (26) "Life of Mine" means the anticipated duration an Operator can produce a Great Salt Lake Element or Mineral in Paying Quantities.
- (27) "Mitigation Water" means the water diverted from sources other than Great Salt Lake and delivered to Great Salt Lake to compensate for Brine Depletion. Mitigation Water may not include wastewater reuse.
- (28) "Mitigation Plan" means the same as that term is defined in Subsection 65A-17-101(11).
- (29) "Multiple Mineral Development Area" means the same as that term is defined in Subsection 65A-17-101(12).
- (30) "Negative Impact" means a substantive and material adverse impact or disturbance in the singular or cumulative instance, caused or created by one or more Operator, to the Biota or Chemistry of Great Salt Lake, as determined by the division.
- (31) "Non-Evaporative Technology" means a mineral operation that does not utilize evaporative processes at any stage of the extractive process to develop or extract a Great Salt Lake Element or Mineral from the waters, brines, or substrates of Great Salt Lake.
- (32) "Operations Royalty Agreement" means an agreement entered into between an Operator and the division authorizing and governing the extraction of a Great Salt Lake Element or Mineral.
- (33) "Operational Waste" means garbage, refuse, sludge, or other similar material, including solid, liquid, semi-solid, or contained gaseous material generated from the extraction or production of Great Salt Lake Elements or Minerals.
- (34) "Paying Quantities" means the same as that term is defined in Subsection 65A-17-101(15).
- (35) "Returned Water" means any water discharged into Great Salt Lake from operations relating to the extraction of Great Salt Lake Element or Minerals.
- (36) "Royalty Rate Deduction" means the percent reduction, contained in Section R652-21-1004, for which an Operator may apply to lower the Base Royalty Rate.
- (37) "Sale Price" means the market price to which any royalty attaches, at the point which any Great Salt Lake Element or Mineral is extracted and processed on Great Salt Lake, and is exclusive of any transportation, third-party processing, or other external costs.
- (38) "Sampling Royalty Agreement" means a short-term agreement entered into between an Operator and the division, during the Feasibility Assessment, authorizing and governing the extraction of a fixed volume of Great Salt Lake water or brine.
- (39) "Secondary Material" means existing tailings, discarded material, end-use products, or waste products produced from the evaporation and processing of Great Salt Lake brines. Products containing Great Salt Lake Elements or Minerals which remain held in suspension or in evaporation ponds are not within the meaning of this definition.
- (40) "Secondary Recovery Process" means the process for recovering Great Salt Lake Elements or Minerals from Secondary Material.
- (41) "Secondary Recovery Royalty Agreement" means an agreement entered into between an Operator and the division authorizing and governing the production of a First Marketable Product from a Secondary Recovery Process.
- (42) "Self-Certification" means a representation by an Operator affirmatively stating the contents provided are correct, in compliance with the Unsworn Declaration Act, Section 78B-18a-101.
- (43) "Total Water" means the sum of Externally Sourced Water and Brine Water.
- (44) "Variable-Rate Royalty" means a royalty rate that adjusts depending on the value of the commodity being sold.
- (45) "Waste" means the same as that term is defined in Subsection 65A-17-101(18).

NOTICES OF PROPOSED RULES

(46) "Water Depletion" means the volume of Total Water consumed through processing and operations, calculated by subtracting the volume of Returned Water from the volume of Total Water.

(47) All other definitions in Sections 65A-6-4 and 65A-17-101 apply to Rule R652-21.

**R652-21-300. Nomination Process.**

(1) An existing or prospective Operator may, at any time, file a nomination for rulemaking with the division to establish a royalty rate and calculation methodology for any Great Salt Lake Element or Mineral that does not have an established royalty rate and calculation methodology.

(2) Upon such nomination, the division shall, by rule, establish a royalty rate and calculation methodology for the Great Salt Lake Element or Mineral nominated.

**R652-21-400. Secondary Recovery.**

An Operator may enter into a Secondary Recovery Royalty Agreement with the division for the processing and sale of Secondary Material in existence before the enactment of Rule R652-21.

**R652-21-401. Location of Secondary Material.**

Any Secondary Material considered for a Secondary Recovery Process may not be located on sovereign lands or within evaporation ponds associated with Great Salt Lake mineral extraction.

**R652-21-402. Secondary Recovery Application.**

(1) An Operator shall submit a Secondary Recovery Application on the form provided by the division.

(2) The division has the discretion to approve, conditionally approve, deny, or consider incomplete any Secondary Recovery Application.

(3) Applicants shall meet the minimum qualifications set forth in Section R652-3-200.

(4) An Operator shall request a pre-filing meeting with the division at least 30 days before submitting an application for a Secondary Recovery Royalty Agreement.

(5) The division may waive or shorten the requirement for a pre-filing meeting request.

**R652-21-403. Secondary Recovery Royalty Agreement.**

(1) Before any sale occurs, an Operator shall provide a Self-Certification and report the quantity, in existence before the effective date of Rule R652-21, of Secondary Material for which they intend to utilize Secondary Recovery Processes.

(2) A Feasibility Assessment is not required for a Secondary Recovery Royalty Agreement, so long as any Operational Waste, by-products, or discharges associated with the processing are not released onto sovereign lands or other hydrologically connected resources.

(3) An Operator shall enter into a Feasibility Assessment before continuing to extract or process, under a royalty agreement other than a Secondary Recovery Royalty Agreement, a Great Salt Lake Element or Mineral from any tailings, discarded material, end-use products, or waste products beyond those reported in Subsection R652-21-403(1).

(4) A Secondary Recovery Royalty Agreement shall terminate when the last Secondary Material, as reported in Subsection R652-21-403(1), is processed and sold.

(5) Any Great Salt Lake Element or Mineral extracted or evaporated after the effective date of Rule R652-21 is not eligible for processing and sale under a Secondary Recovery Royalty Agreement.

**R652-21-500. Feasibility Assessment.**

To be eligible for an Operations Royalty Agreement, an Operator shall complete a Feasibility Assessment.

**R652-21-501. Purpose.**

The purpose of such Feasibility Assessment is to:

(1) inform the division's continuing assessment and determination of the Commercial Viability of a proposed operation; and

(2) inform the division of impacts the proposed operation would have on the Biota and Chemistry of Great Salt Lake.

**R652-21-502. Feasibility Application.**

(1) An existing or prospective qualified Applicant, as defined in Section R652-3-200, shall submit a Feasibility Application on the form provided by the division.

(2) An Operator shall request a pre-filing meeting with the division and with the Division of Water Quality at least 30 days before submitting an application for a Feasibility Assessment.

(3) The division and Division of Water Quality may jointly waive or shorten the requirement for a pre-filing meeting request.

(4) Before the division and an Operator may enter into a Sampling Royalty Agreement, an Operator shall submit the following information in its Feasibility Application to the division:

(a) applicant information, including:

(i) legal name, permanent address, telephone number, and email address of the Operator;

(ii) name and permanent address of the Operator's registered agent in the Utah;

(iii) name, address, email address, and telephone number of the primary contact, including the person to whom requests for additional information should be addressed;



- (iv) signature of the Operator, signed by an officer of the corporation, if applicable; and
- (v) a description of the Operator's experience and knowledge predicated on the Operator's ability to commercially produce elements or minerals from the brines of Great Salt Lake; and
- (vi) information regarding the nature and status of any existing contractual disputes with the State, regulatory actions, or alleged noncompliance, including plans to resolve or remedy such disputes or alleged noncompliance;
- (b) the requirements established in Subsection R317-16-3(4);
- (c) Self-Certification the Operator's planned Feasibility Assessment operations will have no Negative Impact on the Biota and Chemistry of Great Salt Lake;
- (d) additional project information, including:
  - (i) types of technology to be employed;
  - (ii) a detailed description of the Operator's plan and operations for extraction during the Feasibility Assessment;
  - (iii) identification of the Royalty Rate Deduction the Operator intends to pursue, if applicable;
  - (iv) anticipated surface use occupancy and ownership thereof, including a description of any infrastructure to be placed on Great Salt Lake sovereign land and a description of upland development necessary for operations;
  - (v) proof of Bonding for any disturbance during the Feasibility Assessment to sovereign land and uplands;
  - (vi) a description of the Operator's plan for any necessary reclamation action in the Feasibility Assessment area following termination of the Feasibility Assessment;
  - (vii) a detailed description of the Operator's plan for the location, processing, and storage of Great Salt Lake Elements or Minerals during the Feasibility Assessment;
  - (viii) copies of any easements, permits, approvals, agreements, applications or other documents which have been or will be submitted to other agencies or have been issued by other agencies for initiation of the Feasibility Assessment operations;
  - (ix) proof of all pending or acquired water rights and related appropriations necessary to perform the Feasibility Assessment or a detailed plan demonstrating how the Applicant will acquire water rights necessary to perform the Feasibility Assessment once in receipt of a Sampling Royalty Agreement;
  - (x) a detailed description of any agreements, contracts, options, and other financial arrangements entered into by the Operator and a third-party relating to both the Feasibility Assessment and planned extraction operations;
  - (xi) all available evidence and supporting documentation establishing Commercial Viability, including an estimated projection of the operation's Life of Mine and Great Salt Lake Element or Mineral production during the Feasibility Assessment; and
  - (xii) the projected operational recovery rate for the Great Salt Lake Element or Mineral.
- (5) If Operator has an existing royalty agreement, it is within the division's discretion to require additional showings regarding the Operator's standing and compliance with any existing division obligations.
- (6) At any point during review of a Feasibility Application, the division may request additional relevant information from the Applicant.
- (7) To remain in consideration for a Sampling Royalty Agreement, the Applicant shall provide such information in a reasonable time, specified by the division.
- (8) Within 60 days of receiving a Feasibility Application, the division shall notify the Applicant in writing of the status of the Application.
- (9) The division may issue a written decision:
  - (a) approving the Feasibility Application as submitted;
  - (b) denying the Feasibility Application as submitted;
  - (c) approving the Feasibility Application, with conditions determined by the division; or
  - (d) considering the Feasibility Application incomplete and providing the Applicant with a list of missing information, at which point the Applicant may either provide the missing information or re-submit the Feasibility Application.
    - (i) Applicants who submit incomplete Feasibility Applications shall be allowed 60 days to provide the required information.
    - (ii) Incomplete applications not remedied within the 60 day period may be denied with the application fee forfeited to the division.
- (10) Upon submission of a Feasibility Application, any Operator wishing to enter into a Cooperative Agreement shall obtain a list of all existing Operators from the division and notify each existing Operator of its intention to enter into a Cooperative Agreement.

**R652-21-503. Feasibility Assessment Term.**

- (1) The Feasibility Assessment term shall be up to nine months, unless otherwise determined by the division.
  - (a) A three-month extension may be granted by the Director upon good cause shown by the Operator.
  - (b) A request for extension shall be submitted to the division upon the form provided by the division at least one month before the expiration of the Feasibility Assessment term.
- (2) The Feasibility Assessment shall terminate if:
  - (a) nine months have passed without the Director's approval of an extension, whether or not an Operations Royalty Agreement has been executed;
  - (b) an Operations Royalty Agreement is executed before the Feasibility Assessment Term expires;
  - (c) the Director finds there is not good cause shown to grant an extension to the Operator;
  - (d) the Director finds the Feasibility Assessment has resulted or will imminently result in Negative Impacts to Great Salt Lake; or
  - (e) the Director finds there is no possibility of the operation substantiating Commercial Viability.
- (3) The Director's findings substantiating termination of a Feasibility Assessment shall be documented in a written decision.

**R652-21-504. Feasibility Assessment Surface Use Authorization.**

(1) Before an Operator begins a Feasibility Assessment, an Operator may obtain from the division a non-assignable Right of Entry for the temporary use and occupation of Great Salt Lake sovereign lands for purposes necessary to complete the Feasibility Assessment.

(2) During the term of the Feasibility Assessment, the Operator may not cause any surface disturbance and may only place non-permanent improvements on the surface which are not affixed and do not cause damage to the surface.

(3) The term of a Right of Entry, obtained by an Operator under this section may not exceed the term of the Sampling Royalty Agreement.

(4) A Right of Entry for a Feasibility Assessment shall terminate within one year of issuance or upon termination of a Sampling Royalty Agreement as described in Section R652-21-505, whichever is sooner.

**R652-21-505. Sampling Royalty Agreement.**

(1) Upon the division's approval of a Feasibility Application, the Operator shall obtain a Sampling Royalty Agreement from the division.

(2) Except for an agreement providing for a royalty rate for extraction of a Great Salt Lake Element or Mineral entered into before May 3, 2023, an Applicant shall pay a minimum royalty of \$5,000 per month as the Sampling Royalty Rate.

(3) A Sampling Royalty Agreement shall terminate upon the occurrence of any event specified in Section R652-21-503.

(4) Any Great Salt Lake Element or Mineral extracted or produced under a Sampling Royalty Agreement shall be accounted for and not sold until execution of an Operations Royalty Agreement.

(5) Any Great Salt Lake Element or Mineral extracted or produced under a Sampling Royalty Agreement may be utilized by third parties for testing and evaluation.

(6) The Sampling Royalty Rate shall be paid to the state within 30 days of the end of each fiscal quarter.

(7) An Applicant shall, in compliance with Subsection 73-3-8(3), file a copy of its Sampling Royalty Agreement with the Division of Water Rights.

(8) A Sampling Royalty Agreement does not vest an Applicant with any rights pertaining to an Operations Royalty Agreement.

**R652-21-506. Feasibility Assessment Reporting and Record Keeping.**

(1) During the term of the Feasibility Assessment, an Operator shall perform the necessary sampling and testing on at least a monthly basis.

(2) During the term of the Feasibility Assessment, an Operator shall submit a feasibility report to the division within 30 days of the end of each fiscal quarter.

(3) A feasibility report shall include:

(a) a production report, including the volume and weight of any Great Salt Lake Element or Mineral extracted or produced through the Feasibility Assessment;

(b) any new evidence and supporting documentation, beyond submissions provided in the Feasibility Application, establishing Commercial Viability for the Life of Mine;

(c) any new evidence and supporting documentation, beyond submissions provided in the Feasibility Application, supporting the Operator's ongoing ability to provide Self-Certification that Feasibility Operations have no Negative Impact to Biota and Chemistry;

(d) Total Water, Brine Depletion, and Water Depletion data based on metering data;

(e) if applicable, detailed information on the amount and chemistry of all substances added during processing; and

(f) any other relevant information required by the division.

(4) Upon request by the division, an Operator shall provide any additional relevant information to the division in a reasonable amount of time, as determined by the division.

(5) An Operator with a Feasibility Royalty Agreement shall keep accurate records of the volume and weight of any Great Salt Lake Element or Mineral extracted.

(6) Operators shall keep records of the volume and weight of any Great Salt Lake Element or Mineral extracted for at least five years and shall be available for inspection upon request by the division.

(7) Upon either the termination of a Feasibility Assessment or the filing of an Operations Application, whichever occurs first, an Operator shall file a final feasibility report with the division.

(8) The final feasibility report shall include:

(a) the Operator's quantitative and qualitative assessment of successes and limitations encountered by the Operator during the term of the Feasibility Assessment;

(b) the Operator's detailed plan for any necessary reclamation action following termination of the Feasibility Assessment;

(c) any material changes to the Required Showings submitted in the Feasibility Application;

(d) a summary of findings establishing Operator's Feasibility Assessment had no Negative Impact on the Biota and Chemistry of Great Salt Lake; and

(e) any additional relevant information requested by the division, provided the division gave sufficient advance notice of the need for such information.

**R652-21-507. Cost Recovery.**

(1) The division, during the Feasibility Assessment, shall recover reasonable costs incurred for monitoring, inspections, and application processing.

(2) The division may contract with a third party to independently verify any information submitted to the division.

**R652-21-600. Common Source of Supply Designation.**

(1) Pursuant to Section 65A-17-303, and based on the existence of numerous Great Salt Lake Elements or Minerals which can be extracted from Great Salt Lake's water or brine, the division designates the entire mineral estate held in suspension within the water and brines of Great Salt Lake as a Common Source of Supply.

(2) As a Common Source of Supply, the division shall manage and plan for the overall development of Great Salt Lake's Mineral Resources in consideration of each Operator or separate operation on Great Salt Lake.

**R652-21-601. Statement of Public Interest and Establishment of Multiple Mineral Development Principles.**

Pursuant to Section 65A-17-303 and as the executive management authority over the state's sovereign lands under Section 65A-10-1, the division declares it is in the public interest to foster, encourage, promote, and balance the responsible development, production, and utilization of Great Salt Lake Elements or Minerals in such a manner as to:

(1) prevent Waste from arising from concurrent extractive operations;

(2) ensure the greatest ultimate recovery of Great Salt Lake Elements or Minerals is obtained without unduly interfering with other concurrent extractive operations;

(3) establish the equal dignity of rights to the Common Source of Supply while protecting the Correlative Rights of all owners having rights to the Common Source of Supply and preserving the state's fiduciary obligation to manage public trust assets; and

(4) encourage Emergent Technologies to protect Great Salt Lake's overall ecological integrity while simultaneously ensuring the greatest possible economic recovery for Great Salt Lake Operators and the State.

**R652-21-602. Effect of Designation of Great Salt Lake as a Multiple Mineral Development Area.**

(1) Pursuant to Section 65A-17-303, Great Salt Lake is designated as a Multiple Mineral Development Area.

(2) As a Multiple Mineral Development Area, Great Salt Lake Element or Mineral Operations shall comply with all applicable law governing individual operations and Multiple Mineral Development Areas.

**R652-21-603. Cooperative Agreements and Mineral Lease and Royalty Agreement Integration.**

(1) A Great Salt Lake Operator shall enter into and maintain a Cooperative Agreement with existing Operators.

(2) Entering into a Cooperative Agreement with all other Great Salt Lake Operators is a condition precedent to the division issuing an Operations Royalty Agreement and is a condition for continued operations.

(3) In addition to any other negotiated term or condition, each Cooperative Agreement executed by Great Salt Lake Operators shall clearly and conspicuously provide any rights, responsibilities, and obligations contained in the Cooperative Agreement are subject to the public trust as referenced in Section R652-2-200.

(4) A Cooperative Agreement shall define and address the requirements in Subsections 65A-17-303(2) and 65A-17-304(1).

(5) The Director shall review a negotiated Cooperative Agreement under the requirements set forth in Sections 65A-17-303 and 65A-17-304.

(6) The Director may approve the Cooperative Agreement by issuing a written record of decision, under Section R652-9-200.

(7) Upon the Director's approval of the Cooperative Agreement, the division shall be a signatory to the Cooperative Agreement.

(8) No Operator shall obstruct or interfere with the ability of another new or existing Operator from entering into a Cooperative Agreement.

**R652-21-604. Multiple Mineral Development Conflict Resolution.**

(1) When one Operator, either intentionally or unintentionally, interferes with or damages the mineral or element rights or mineral or element interest of another Operator, the division and the Operators shall enter into a Mitigation Plan.

(2) When unreasonable mineral estate interference, Waste, or Negative Impacts to Great Salt Lake Natural Resources occurs, the division and the Operators shall enter into a Mitigation Plan.

(3) To cure a breach of a Mitigation Plan:

(a) the division may issue a notice of violation or cessation order, pursuant to Sections R652-21-1300 through R652-21-1302; or

(b) an Operator may pursue informal administrative remedies pursuant to Sections 63G-4-201 through 63G-4-209, Utah Administrative Procedures Act, and Sections R652-8-100 through R652-8-500.

**R652-21-700. Operations Application.**

The purpose of the Operations Application is to substantiate the information generated through a Feasibility Assessment and to determine the terms which will govern the proposed extraction or production of a nominated Great Salt Lake Element or Mineral.

**R652-21-701. Submission.**

(1) Applications to the division shall be submitted on the form provided by the division.

(2) All information collected by Operator and submitted in support of an Operations Application shall list the collection date of any submitted information.

**R652-21-702. Approval.**

The division's approval of an Operations Application is required to obtain an Operations Royalty Agreement.

**R652-21-703. Pre-Filing Meeting.**

- (1) An Operator shall request a pre-filing meeting with the division and with the Division of Water Quality at least 30 days before submitting an application for an Operations Royalty Agreement.
- (2) The division and the Division of Water Quality may jointly waive or shorten the requirement for a pre-filing meeting request.

**R652-21-704. Required Showings.**

Before the division and an Operator may enter into an Operations Royalty Agreement permitting the extraction of a nominated Great Salt Lake Element or Mineral, such Operator shall submit the following information in its Operations Application to the division:

- (1) applicant information, including:
  - (a) legal name, permanent address, telephone number, and email address of the Operator;
  - (b) name and permanent address of the Operator's registered agent in the Utah;
  - (c) name, address, email address, and telephone number of the primary contact, including the person to whom requests for additional information should be addressed;
  - (d) signature of the Operator, signed by an officer of the corporation, if applicable;
  - (e) a description of the Operator's experience and knowledge predicated the Operator's ability to commercially produce elements or minerals from the brines of Great Salt Lake; and
  - (f) information regarding the nature and status of any existing contractual disputes with the State, regulatory actions, or alleged noncompliance, including plans to resolve or remedy such disputes or alleged noncompliance;
- (2) proof of a Sampling Royalty Agreement;
- (3) evidence supporting Operator Certification of No Negative Impacts, under Section R652-21-705;
- (4) project information, including:
  - (a) type of Great Salt Lake Element or Mineral to be extracted;
  - (b) type of operations to be conducted, including the types of technology, and a description of how, including in what sequence, they are to be employed through all stages of operations;
  - (c) a detailed description of the Operator's plan and operations for extraction, including estimated dates when operations may begin and end and the dates withdrawals or discharges may take place;
  - (d) identification of the Royalty Rate Deduction the Operator desires to obtain and all data, information, and reporting required for the division's analysis of such Royalty Rate Deduction;
  - (e) surface use occupancy and ownership thereof, including a description of any infrastructure to be placed on Great Salt Lake sovereign land and upland development necessary for operations;
  - (f) proof that Bonding is in place with the division and the Division of Oil, Gas & Mining, if applicable;
  - (g) proof of a reclamation plan negotiated with and approved by the division;
  - (h) a detailed description of the location, processing, and storage of Great Salt Lake Elements or Minerals;
  - (i) estimated amounts of Great Salt Lake Element or Mineral to be produced;
  - (j) the anticipated operational recovery rate for the Great Salt Lake Element or Mineral;
  - (k) estimated amounts of Operational Waste to be produced;
  - (l) copies of any easements, permits, approvals, agreements, applications or other documents required for initiation of operations;
  - (m) proof of all pending or acquired water rights and related appropriations necessary for operations or a detailed plan demonstrating how the Applicant will acquire water rights necessary to perform operations once in receipt of an Operations Royalty Agreement;
  - (n) a detailed description of any agreements, contracts, options, and other financial arrangements entered into by the Operator and a third-party relating to operations; and
  - (o) evidence and supporting documentation establishing Commercial Viability for the Life of Mine, including both the method of evaluation and the data used in such evaluation;
- (5) proof of an executed Cooperative Agreement;
- (6) Self-Certification operations may not violate Subsection 65A-6-1(3);
- (7) the information identified in Section R652-21-805; and
- (8) any other information the division or Director considers necessary to approve the application, including proprietary information regarding planned technology.

**R652-21-705. Required Showings for Certification of No Negative Impact.**

An Operator filing an Operations Application shall include the following information:

- (1) a Self-Certification the proposed project will not Negatively Impact the Biota or Chemistry of Great Salt Lake;
- (2) the requirements established in Subsection R317-16-3(4), revised and updated to reflect the scale and design of operations;
- (3) all data and data analysis related to Biota and Chemistry derived from the Feasibility Assessment;
- (4) information regarding Returned Water, and, if applicable, Mitigation Water, including:
  - (a) names of the waters where discharge or delivery may occur, including: latitude and longitude to the fifth decimal place in decimal degrees and to the tenth of a degree in degrees-minutes-seconds notation; and
  - (b) sources, volume, and timing of the discharge or delivery.
- (5) any other information required by the division.

**R652-21-706. Operations Surface Use Authorizations.**

(1) Before the division and Operator may enter into an Operations Royalty Agreement, an Operator shall obtain from the division the necessary permits, easements, or other surface use authorizations required for Operations.

(2) An Operator shall apply for a surface use authorization from the division for the extraction of Great Salt Lake Elements or Minerals if the Operator is proposing to utilize Great Salt Lake sovereign lands for evaporation ponds, dikes, pipelines, processing equipment, facilities, roads, or any other improvements or structures requiring surface use or disturbance.

(3) An Operator may not conduct any surface disturbance to Great Salt Lake sovereign lands until the Operator completes a Feasibility Assessment and obtains an Operations Royalty Agreement.

**R652-21-707. Additional Required Information.**

(1) At any point during review of an Operations Application, the division or Director may request additional relevant information from the Applicant.

(2) To remain in consideration for an Operations Royalty Agreement, the Applicant shall provide such information within a reasonable time, specified by the division.

**R652-21-708. Approval of Certification of No Negative Impact.**

(1) After receiving an Operations Application, the division shall confer with the Department of Environmental Quality in reviewing the Operations Application.

(2) Before approving an Operations Application, the division shall review the Application and may approve the Operator's Certification of No Negative Impact supporting a finding:

(a) the operation will not Negatively Impact the Biota of Great Salt Lake; and

(b) the operation will not Negatively Impact the Chemistry of Great Salt Lake.

(3) If the division cannot in good faith approve a certification specified in Section R652-21-708, within forty-five days of receiving the Operations Application, the division shall notify the Applicant and provide a list of missing information to supply.

(4) An Applicant shall submit the additional missing information requested by the division within forty-five days of receipt of notice from the division.

(5) If the Operator does not provide the requested missing information to the division, the division shall deny the Operations Application, at which point the Operator may re-submit the Operations Application.

**R652-21-709. Operations Application Evaluation.**

(1) Within 60 days of receiving an Operations Application, the division shall notify the Operator in writing of the status of the Operations Application.

(2) The division may issue a written decision:

(a) approving the Operations Application;

(b) denying the Operations Application; or

(c) considering the Operations Application incomplete.

(3) If the division determines the operation is incomplete, the division will provide the Applicant with a list of missing information, at which point the Applicant may either provide the missing information or re-submit the Operations Application.

(a) Applicants who submit incomplete Operations Applications shall be allowed 60 days to provide the required information.

(b) Incomplete applications not remedied within the 60 day period may be denied with the application fee forfeited to the division.

(4) The division may contract with a third party to analyze any Application submitted. Applicants shall be responsible for any expense incurred as a result of or associated with this Certification.

**R652-21-710. Multiple Applications for Lithium.**

If the division is in receipt of more than one active Operations Application for extraction of Lithium from Great Salt Lake, the division shall first evaluate Operations Applications which do not use Evaporative Technologies in any stage of the extractive process.

**R652-21-800. Operations Royalty Agreement Required Terms.**

(1) Operations Royalty Agreements shall contain provisions necessary to affect the purposes of Rule R652-21.

(2) In addition to any other negotiated provisions, an Operations Royalty Agreement shall include the terms and conditions in Sections R652-21-801 through R62-21-828.

**R652-21-801. Right to Extract.**

The Operations Royalty Agreement provides the right to extract the Great Salt Lake Element or Mineral suspended in brines of Great Salt Lake. The Operations Royalty Agreement does not give Operator the right to extract any Great Salt Lake Element or Mineral not explicitly referenced in the Agreement.

**R652-21-802. Rights Reserved to the Division as Lessor.**

The division expressly reserves the right to: lease or issue additional royalty agreements for the extraction of Great Salt Lake Elements or Minerals; alter or modify the quantity and rate of Great Salt Lake Operator's production upon invocation of the Emergency Trigger, pursuant to Sections R652-21-1400 through R652-21-1406; withdraw certain Great Salt Lake lands, methods of extraction, operations, or technologies upon invocation of the Emergency Trigger if the division finds these methods, operations, or technologies are directly causing or

## NOTICES OF PROPOSED RULES

exacerbating the conditions creating the Emergency Trigger, defined under Section 65A-17-101; contract with a qualified third-party to audit and review Operator's reporting required by Sections R652-21-1100 and R652-21-1101; and contract with a qualified third-party or government entity to monitor the Chemistry and composition of water and brine inputs and outputs and returned water.

### **R652-21-803. Term.**

The Operations Royalty Agreement shall remain in effect for a term of ten years commencing on the first day of the month following the execution date, and subject to any existing valid rights in said land, and shall automatically renew for consecutive terms, unless either party gives notice at least six months before the expiration of the Operations Royalty Agreement of their intent to terminate such agreement. The Final Royalty Rate may be renegotiated prior to the lapse of the final year of the term. The Operations Royalty Agreement may not be held by production.

### **R652-21-804. Royalties.**

Royalties shall be paid by an Operator to the division pursuant to the applicable royalty rate established in rule.

### **R652-21-805. Reporting.**

Within 30 days of the end of each fiscal quarter during the term of the Operations Royalty Agreement, an Operator shall furnish to the division a report providing information required in Sections R652-21-1200 through R652-21-1206.

### **R652-21-806. Cost Recovery.**

The division reserves the right to invoice and collect reimbursement from the Operator for the reasonable cost of independent monitoring, review and verification of information or inspection required to obtain and maintain an Operations Royalty Agreement.

### **R652-21-807. Reassessment.**

The division reserves the right to review and adjust the provisions of an Operations Royalty Agreement in the event of significant changes or unforeseen circumstances, including: changes in market conditions significantly affecting the demand or pricing of the Great Salt Lake Element or Mineral; implementation of Emergent Technology; Negative Impacts to Great Salt Lake Chemistry or Biota caused by Operator; termination, lapse, or loss of Division of Water Quality Operator certification approval under Rule R317-16; or the reaching of the Great Salt Lake Emergency Trigger, as defined in Section 65A-17-101; and other significant changes or unforeseen circumstances determined by the division. The division may review and adjust the Base Royalty Rate only upon or after the conclusion of the primary term.

### **R652-21-808. Shut-in.**

For the state to obtain a full and fair return for its public trust assets, the Parties mutually agree that, if an Operator is unable to produce in Paying Quantities for more than two consecutive fiscal quarters, the division may require an Operator to cease operations until market conditions improve. If operations are ceased under this provision the Operator's royalty obligations shall be suspended.

### **R652-21-809. Change in Operations.**

If at any point an Operator adds or intends to add emerging technologies to their existing operation, such Operator shall notify the division. The division may require the Operator to submit any additional information required to evaluate such proposed Emergent Technology. If at any point an Operator adds or intends to add Evaporative Technologies to their existing operation, the Operator shall notify the division. The division may require the Operator to submit any additional information required to evaluate the proposed Evaporative Technology. Upon the occurrence of any such events, the division shall re-evaluate its approval of Operator's Certifications regarding Negative Impacts and adjust the royalty rate and terms of the Operations Royalty Agreement, as necessary.

### **R652-21-810. Consent to Suit.**

Operator consents to suit in the courts of the State of Utah in any dispute arising under the terms of the Operations Royalty Agreement or as a result of operations carried on under the Operations Royalty Agreement. Operator agrees for itself, its heirs, successors, and assigns that any suit brought by Operator, its heirs, successors, or assigns concerning the Operations Royalty Agreement may be maintained only in the Utah State District Court in and for Salt Lake County.

### **R652-21-811. Assignment.**

Operator may not assign the Operations Royalty Agreement in whole or in part without obtaining the prior written consent of the division, which consent may not be unreasonably withheld. Operator may not be relieved of the responsibilities or liabilities assumed hereunder by virtue of any assignment to a third party unless the division provides written approval as provided herein, the third party is acceptable to the division as an Operator, and the third party assumes, in writing, all obligations of Operator under the terms of the Operations Royalty Agreement. Additionally, Operator shall notify the division of any material changes to Operator's corporate structure altering any contractual or financial obligation with the division within 30 days of the change.

### **R652-21-812. Establishment of Water Rights.**

For the term of the Operations Royalty Agreement, the Operator shall maintain an approved and valid water right authorizing the Operator to divert and beneficially use water from Great Salt Lake for extracting the Great Salt Lake Element or Mineral contemplated by this Agreement. The Agreement may not be construed to relieve the Operator from full compliance with Title 73, Water and Irrigation, relative to the administration, appropriation, measurement, apportionment, or distribution of waters of the state.

**R652-21-813. Discovery of Other Minerals.**

In the event the Operator discovers other Great Salt Lake Elements or Minerals which can be extracted and produced economically, a "Discovered Mineral," during its operations under the Operations Royalty Agreement and wishes to produce those Great Salt Lake Elements or Minerals, the Operator shall, at the time of discovery, notify the division and obtain a separate royalty agreement for such Great Salt Lake Elements or Minerals.

**R652-21-814. Research and Development.**

This Operations Royalty Agreement shall give Operator the right to extract water or brine for equipment design, evaluation, and calibration or to transfer such water or brine to a third party for the purposes of testing, research equipment design, evaluation, and calibration, but only if it is for the purposes of designing, commissioning, developing, or optimizing the extraction process that such Operator is currently implementing on Great Salt Lake.

**R652-21-815. Waste.**

The Operator shall conduct operations in a manner that avoids Waste, as that term is defined in Subsection 65A-17-101(18), and maximizes the recovery and utilization Great Salt Lake Elements or Minerals. The Operator shall use methods and techniques which promote maximum and efficient resource recovery, such as proper sorting, separation, stockpiling, and processing of element or mineral-bearing materials.

**R652-21-816. Indemnification.**

The Operator shall be liable for all damage incurred in connection with any activity undertaken or work authorized by the Agreement. The Operator shall indemnify and hold the division harmless against all liability, including attorney's fees, of any nature imposed upon, incurred by, or asserted against the division which in any way relate to or arise out of the activity or presence of the Operator, its servants, employees, agents, sublessees, assignees, or invitees.

**R652-21-817. Force Majeure.**

If either Party is prevented or delayed from completing any obligation under the Operations Royalty Agreement by a Force Majeure Event, herein referred to as the "Affected Obligation," except for the performance of any payment obligation that has accrued prior to the Force Majeure Event, the Affected Obligation shall be suspended and the affected Party may not be considered in default or liable for damages or subject to other remedies as a result thereof for so long as the affected Party is prevented to delayed from completing the Affected Obligation by the Force Majeure Event. For purposes of the Agreement, a "Force Majeure Event" shall mean any matter, foreseeable or unforeseeable, not avoidable or overcome by the exercise of commercially reasonable diligence, and that is beyond the affected Party's reasonable control, including: acts of God, any action after the date hereof by governmental authorities, other than the division, that would prevent, delay, or make unlawful a Party's performance, suspension of activities to remedy or avoid an actual or alleged violation of environmental laws, fires, explosions, epidemics, unusually inclement weather, flood, drought, acts of war, insurrection, revolution, civil commotion, rights or terrorism, strikes, lock-outs or other labor disputes, including: strikes, lock-outs, or other labor disputes by the employees of direct or indirect contractors, suppliers, or agents of Operator; the division's invocation of the Emergency Trigger, as defined in Section 65A-17-101; inability to obtain necessary materials, power or other utilities; inability to obtain permits, approvals, or consents from governmental authorities or private parties within a reasonable time; and significant damage to, substantive destruction of, or unavoidable shutdown of necessary facilities or equipment.

**R652-21-818. Water Depletion and Emergent Technologies.**

The Operator agrees the division has the discretion and power to require an existing Operator to use Emergent Technologies to minimize water depletions caused by the current or planned mineral extraction as a condition of continued operations. Before requiring an Operator to implement any such Emergent Technologies, those technologies must be Commercially Viable Technologies, as defined in Section 65A-17-101, and the Operator shall be given a period of time, that is at least five years but does not exceed seven years from the day on which the division formally determines and communicates in writing that the technology is a Commercially Viable Technology for the given Operator, to implement such Emergent Technologies which minimize water depletion.

The Operator shall accurately report to the division the volume of Brine Depletion and any reductions in the volume of Brine Depletion resulting from the implementation of any Emergent Technology.

**R652-21-819. Water Mitigation.**

If an Operator depletes water during operations, whether that water is extracted from Great Salt Lake or from an external source, the Operator may mitigate such depletion, herein referred to as "Mitigation Water." If applicable, it is the Operator's obligation to ensure the Mitigation Water is delivered to Great Salt Lake in the approximate location and quality where the depletion occurred. Before mitigating such depletion, the Operator shall obtain discharge permits from the Department of Environmental Quality, if necessary.

**R652-21-820. Third Party Monitoring.**

The division reserves the right to hire a qualified third-party to review, audit, or monitor Operator's ongoing reporting and data gathering methodology required by Sections R652-21-1100 and R652-21-1101.

The division reserves the right to require the Operator to install and use monitoring equipment, paid for exclusively by the Operator, within the Operator's leased area. The division may enter the Operator's leased area at any time.

**R652-21-821. Curtailment Framework and Emergency Trigger.**

The Parties agree, in the event the Emergency Trigger is reached, pursuant to Section R652-21-1401, the Operator shall temporarily curtail mineral production as directed by the division. The Parties agree curtailment will not automatically result in the termination of the Operations Royalty Agreement.

**R652-21-822. Subordination.**

The terms and conditions within the Agreement are subordinate and subject to the public trust doctrine and any management decision by the division when exercising its management authority and commensurate obligations with respect to sovereign lands.

**R652-21-823. Conditions for Material Breach.**

Actions amounting to a material breach of this Agreement include: failure to provide ongoing reporting required by Sections R652-21-1100 and R652-21-1101; providing false or misleading information in required reports or certifications; and failure to participate in an audit, or otherwise breaching a substantive obligation. Upon a finding of material breach, the division shall notify Operator of the breach. If the condition causing the material breach is not remedied or fully cured within 30 days of receipt of notice, the division shall issue a cessation order and rescind the Operations Royalty Agreement, at which time, and subject to the Operator's administrative and legal rights to seek review of such cessation order, the Operator shall immediately initiate any applicable reclamation activities.

**R652-21-824. Coordination and Incorporation of Cooperative Agreements.**

This Operations Royalty Agreement acknowledges and incorporates any term and condition negotiated in any fully executed Cooperative Agreement. To the extent there is a conflict, the terms and conditions of the Operations Royalty Agreement shall govern.

**R652-21-825. Severability.**

If any provision of this Agreement is held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable.

**R652-21-826. Water Reductions.**

If the Operator does not utilize the entirety of its Great Salt Lake Water Right during the longer of the primary term of the mineral lease, or royalty agreement, or seven years and if the Operator fails to use the water right for a beneficial use, the division shall pursue a judicial action to declare all or a portion of the water right forfeited under Subsection 73-1-4(2), except if the failure to use the volume of water as a result of a reduction of water usage under Section 73-33-201 or is excused under Section 73-1-4.

**R652-21-827. Multiple Mineral Development.**

The Operator shall prevent Waste to the Common Source of Supply or Great Salt Lake Element or Mineral to be extracted while also avoiding Waste to any Great Salt Lake Natural Resource. The Operator shall extract minerals or elements in a manner that avoids negative impacts to any Great Salt Lake Natural Resource. The Operator agrees to preserve and conserve Great Salt Lake Mineral Resources and Great Salt Lake Natural Resources for future mineral extraction and mineral processing operations and to ensure Healthy Physical and Ecological Conditions are preserved and protected. The Operator represents and warrants full compliance, at lessee's sole expense, with all management decisions and instructions of the division and Director for preservation of Great Salt Lake's Mineral and Natural Resources.

**R652-21-828. Term Conflict.**

To the extent there is a conflict between Rule R652-21 and Subsection R652-20-3200(6) and Section R652-20-2200, Rule R652-21 governs.

**R652-21-900. Surface Use Authorizations Required Terms.**

Surface use authorizations, including but not limited to easements, special use lease agreements, or rights of entry, for extracting Great Salt Lake Elements or Minerals from Great Salt Lake shall contain the provisions set forth in Sections R652-21-901 through R652-21-911.

**R652-21-901. Rights Reserved to the Division as Lessor.**

The division expressly reserves the right to issue easements, leases, rights of entry, and other surface use authorizations as needed and use or otherwise manage the surface of Great Salt Lake sovereign lands pursuant to its obligations under the public trust.

**R652-21-902. Rental Adjustment.**

The Operator agrees the division shall have the right to adjust the annual rentals at the end of the first ten-year period, and every ten years thereafter, as the division shall consider reasonably necessary and that serves the best interest of the State.

**R652-21-903. Due Diligence.**

During the term of this Agreement, the Operator shall exercise due diligence in exploring and developing the entire subject area to identify, extract, process and maximize potential mineral resources. The Operator shall use reasonable and prudent methods, techniques, and technologies to fulfill this obligation.



**R652-21-904. Sovereign Lands.**

This Agreement is expressly subject and subordinate to the right of the State of Utah to manage and control the bed of Great Salt Lake and is subject to the public trust. This Lease may be revoked at any time if necessary to fulfill public trust and statutory responsibilities.

**R652-21-905. Bonding.**

The Operator agrees that, for good cause shown, at any time during the term of this Lease, the division may require the Operator to post with the division a bond with an approved corporate surety company authorized to transact business in the State of Utah, or such other surety as may be acceptable to the division, said bond to be conditioned upon full compliance with all terms and conditions of this Lease and the rules relating hereto. The amount of this bond may not be considered to limit any liability of the Operator. The division may, at any time during the term of this Lease, require the Operator to increase the amount of an existing bond.

**R652-21-906. Reclamation Plan.**

Operator shall submit to the division a plan for the reclamation of the subject area at least 60 days prior to any surface disturbance within the lease area. The division must approve the reclamation plan prior to any surface disturbance and reserves the right to request Operator amend the plan at any time during the term of the Agreement to ensure adequate reclamation and restoration of the subject area.

**R652-21-907. Removal of Fixtures and Reclamation.**

Upon termination of this Agreement for any reason, the Operator, upon payment of all amounts due to the division, shall remove all property, including fixtures, machinery, equipment, and supplies, at the Operator's sole cost and expense and shall reclaim the premises according to the terms of a division-approved reclamation plan within a reasonable time, approved by the division. The division shall give at least 30 days' notice of such termination. The subject land shall be surrendered in good usable condition in as near the natural condition of the land as is reasonably practical. All physical improvements attached to the lands and not removed by the Operator shall become the property of the division.

**R652-21-908. Lease Forfeiture.**

This Agreement may be forfeited in whole or in part due to failure to meet the due diligence requirements to utilize the entire subject area.

**R652-21-909. Operational Waste Response.**

In the event Operator's activities within the subject area cause the uncontained release of Operational Waste, as that term is defined in Section R652-21-200, within the subject area, Operator shall promptly notify the division and comply with Department of Environmental Quality requirements for cleanup and remediation of the Operational Waste.

**R652-21-910. Acreage Reductions.**

If the Operator does not utilize all the acreage subject to the mineral lease or surface use authorization during the primary term of the mineral lease or royalty agreement, the division shall amend the mineral lease or surface use authorization to exclude that unused acreage.

**R652-21-911. Term Conflict.**

To the extent there is a conflict between Rule R652-21 and Subsection R652-20-3200(6) and Section R652-20-2200, Rule R652-21 governs.

**R652-21-1000. Lithium Base Royalty Rate.**

(1) Subject to a Royalty Rate Deduction as provided for in Rule R652-21, the Base Royalty Rate for Lithium Carbonate, Lithium Sulfate, and Lithium Hydroxide shall be 5% of gross sale proceeds for each short ton extracted, produced, processed, and sold from Great Salt Lake water or brines.

(2) To provide a full and fair return to the state, as required by Subsection 65A-6-4(6)(a)(i), the division determines Lithium Chloride is not commercially marketable.

(3) Any Operator desiring to produce or process Lithium Carbonate, Lithium Sulfate, and Lithium Hydroxide is not entitled to post-production deductions for any expended capital costs.

(4) The only Royalty Rate Deduction available to Lithium Carbonate, Lithium Sulfate, and Lithium Hydroxide is expressly designated in Section R652-21-1004, Lithium Royalty Rate Deduction.

**R652-21-1001. Lithium First Marketable Product.**

For all lithium related exploration, extraction, processing, production, and sales, the division determines Lithium Carbonate, Lithium Sulfate, and Lithium Hydroxide are the First Marketable Product to which the Base Royalty Rate attaches.

**R652-21-1002. Final Lithium Royalty Rate and Variable Adjustments.**

(1) After applying an applicable Royalty Rate Deduction and verifying an Operator's qualifications for a Royalty Rate Deduction, a Final Royalty Rate shall be provided to the Operator in an Operations Royalty Agreement executed with the division.

(2) An Operations Royalty Agreement is required before the production, processing, and sale of any Great Salt Lake Element or Mineral.

(3) A Final Royalty Rate is further subject to the Variable-Rate Royalty Schedule provided in Section R652-21-1006.

**R652-21-1003. Royalty Rate for Lithium Produced Exclusively Through Secondary Recovery Processes.**

(1) An Operator may submit a Secondary Recovery Royalty Application to the division demonstrating the Operator's Secondary Recovery Process:

- (a) will, based on reasonable belief, produce a marketable product; and
- (b) will not use water or brine from Great Salt Lake, or any hydrological connection thereto, in the processing and production of a Great Salt Lake Element or Mineral and, therefore, has No Negative Impact to the Biota and Chemistry of Great Salt Lake.

(2) Upon approval of a Secondary Recovery Application, the division shall enter into a Secondary Recovery Royalty Agreement with the Operator.

(3) The royalty rate in a Secondary Recovery Royalty Agreement for Lithium Carbonate, Lithium Sulfate, or Lithium Hydroxide shall be the Non-Evaporative Royalty Rate.

(4) The Secondary Recovery Royalty Rate is further subject to the Variable-Rate Royalty Schedule provided in Section R652-21-1006.

**R652-21-1004. Lithium Royalty Rate Deduction.**

Any Operator that can verifiably demonstrate their operations utilize Non-Evaporative Technologies to produce a Great Salt Lake Element or Mineral shall qualify for a Royalty Rate Deduction of 2.5% and is thus entitled to the Non-Evaporative Royalty Rate.

**R652-21-1005. Proof Requirements to Perfect Lithium Royalty Rate Deduction.**

To qualify for the Royalty Rate Deduction, an Operator shall:

- (1) notify the division, at the time of filing the Feasibility Application, the Operator intends to pursue the Royalty Rate Deduction;
- (2) comply with each of the requirements specified in the rules governing Feasibility Applications; and
- (3) comply with each of the requirements specified in the rules governing Operations Applications.

**R652-21-1006. Lithium Variable-Rate Royalty Schedule.**

(1) The Final Royalty Rate shall be a Variable-Rate Royalty.

(2) A Variable-Rate Royalty applicable to Lithium Carbonate, Lithium Sulfate, or Lithium Hydroxide shall be adjusted quarterly.

(3) The Variable-Rate Royalty Schedule is as follows:

<u>TABLE</u>		
<u>Final Royalty Rate</u>		
<u>Average Sale Price</u>	<u>Base Rate</u>	<u>Non-Evaporative Rate</u>
<u>&lt; \$20,000</u>	<u>5.0%</u>	<u>2.5%</u>
<u>\$20,000 - \$35,000</u>	<u>7.5%</u>	<u>5.0%</u>
<u>\$35,001 - \$45,000</u>	<u>12.5%</u>	<u>10.0%</u>
<u>\$45,001 - \$55,000</u>	<u>17.5%</u>	<u>15.0%</u>
<u>\$55,001 - \$65,000</u>	<u>22.5%</u>	<u>20.0%</u>
<u>&gt; \$65,000</u>	<u>27.5%</u>	<u>25.0%</u>

**R652-21-1007. Execution of Lithium Operations Royalty Agreement.**

(1) Within 30 days of approval of the Operations Application, the division and the Operator shall execute an Operations Royalty Agreement.

(2) The Royalty Agreement shall govern operations for the full term of the Operations Royalty Agreement.

**R652-21-1008. Lithium Royalty Payment Deadlines and Ongoing Reporting.**

(1) Royalties due and owing under an Operations Royalty Agreement shall be paid to the state within 30 days of the end of each fiscal quarter.

(2) Each Operator shall attach a complete royalty report on a form authorized by the division, that requires the Operator to:

- (a) provide Self-Certification of the total amount of product extracted, produced, and sold during the applicable quarter;
- (b) if applicable, and to demonstrate ongoing qualification for a Royalty Rate Deduction, provide Self-Certification of the use of Non-Evaporative Technologies to produce the Great Salt Lake Element or Mineral;
- (c) identify the Sale Price and Variable-Rate Royalty applied to the commodity sold during the quarter; and
- (d) identify any other information required by the division.

(3) During the term of the Operations Royalty Agreement, an Operator shall submit a royalty report to the division within 30 days of the end of each fiscal quarter.

**R652-21-1100. General Ongoing Reporting.**

(1) During the term of the Operations Royalty Agreement, an Operator shall submit an operations report to the division within 30 days of the end of each fiscal quarter.

(2) An operations report shall include:

- (a) production information, including:
  - (i) the volume and weight of any Great Salt Lake Element or Mineral extracted or produced;

(ii) all available evidence and supporting documentation establishing the Operator's continued Commercial Viability, including both the method of evaluation and the data used in such evaluation;  
(iii) actual operational recovery rate for the Great Salt Lake Element or Mineral produced; and  
(iv) rate of extraction for the targeted and non-targeted minerals or elements and rate of depletion of the targeted and non-targeted minerals or elements in GSL;  
(b) if applicable, notification of planned surface disturbances within the lease or easement area prior to Operator undertaking such activity;  
(c) project information, including:  
(i) Total Water, Brine Depletion, and Water Depletion data based on metering data;  
(ii) if applicable, detailed information on the amount and chemistry of all substances added during processing;  
(iii) if applicable, notification of planned surface disturbances within the lease or easement area prior to Operator undertaking such activity;  
(iv) information on Operational Waste, including Operational Waste production, composition, methods of Operational Waste material disposal, and the management, placement, and disposal of Operational Waste; and  
(v) information regarding impacts to salinity;  
(d) information regarding Brine Water and Externally Sourced Water, including:  
(i) names of the waters where any withdrawals occurred, including latitude and longitude to the fifth decimal place in decimal degrees and to the tenth of a degree in degrees-minutes-seconds notation;  
(ii) detailed information on the quantity of any withdrawals;  
(iii) volume and timing of any withdrawals; and  
(e) information regarding Returned Water and, if applicable, Mitigation Water, including:  
(i) names of the waters where any discharges or deliveries occurred, including: latitude and longitude to the fifth decimal place in decimal degrees and to the tenth of a degree in degrees-minutes-seconds notation;  
(ii) detailed information on the quantity of any discharges or deliveries; and  
(iii) volume and timing of any discharges or deliveries;  
(f) discharge information, including a characterization of the physical, chemical, biological, thermal, and other pertinent properties of the discharge:  
(i) at a minimum: pH, total alkalinity, total dissolved solids, total suspended solids, sulfate, nitrate, nitrite, carbonate, bicarbonate, chloride, hydroxide, chemical oxygen demand, biological oxygen demand, silica, zinc, magnesium, sodium, calcium, potassium, boron, bromine, aluminum, iron, and silicon; range of temperatures in effluent; and  
(ii) density range of effluent discharged; and quantity of foreign materials discharged;  
(g) if applicable, information regarding any impacts to habitat and Biota in and around area of operation or discharge; and  
(h) any other relevant information required by the division.  
(3) Upon request by the division, an Operator shall provide any additional relevant information to the division in a reasonable amount of time, as determined by the division.

**R652-21-1101. Other Ongoing Reporting.**

(1) An Operator shall notify the division of any changes to permitting or certifications from the Department of Environmental Quality.  
(2) An Operator shall notify the division of any changes to its water rights or points of diversion during the term of the Operations Royalty Agreement.  
(3) The Operator shall provide, within a commercially reasonable period of time, any other reporting of relevant information requested by the division to ensure compliance with the division's management responsibilities over sovereign lands or statutes and rules specific to Great Salt Lake.

**R652-21-1200. Inspection and Enforcement Authority.**

Nothing in Rule R652-21 shall be construed as eliminating any additional enforcement rights, remedies, or actions available under an Operations Royalty Agreement or state law.

**R652-21-1201. Great Salt Lake Element or Mineral Removal Certification.**

(1) Each Operator shall comply with the requirements in Section 65A-17-302.  
(2) Upon a violation of Section 65A-17-302, the division shall commence an informal adjudication by filing a notice of agency action as specified under Subsection 63G-4-201(1)(a).  
(3) Procedures for informal adjudicative proceedings under this rule are as follows:  
(a) After receiving a notice of agency action, any affected Operator shall file a response no later than 20 days following receipt. If a timely response is not properly filed within the 20 day timeframe, the division shall initiate default procedures specifying the default in the informal adjudicative order issued by the division.  
(b) The division may hold a hearing pursuant to Subsections 63G-4-203(b) through 63G-4-203(d) if the Operator requests a hearing within 30 days of receipt of a notice of agency action, but only upon a showing of good cause by the affected Operator.  
(c) If a hearing is granted by the division, notice shall be provided to the Operator at least 15 days prior to the date the hearing is set.  
(d) The Operator or any other named party in the notice of agency action shall be permitted to testify, present evidence, and comment on the issues.

## NOTICES OF PROPOSED RULES

(e) All discovery is prohibited, except the division may issue subpoenas or other orders compelling production of necessary or relevant evidence.

(f) To the extent permitted by law, all Parties shall have access to information contained in the division's files and to all materials and information gathered in any investigation. For purposes of Section R652-21-1201, Parties is defined as the Operator to which the notice of agency action is directed, any other entity named in the notice of agency action, and the division.

(g) Intervention is prohibited.

(h) Any hearing set by the division shall be open to all Parties.

(i) Within a reasonable time after the close of any informal adjudicative proceeding, the presiding officer shall issue a signed written order stating the following:

(A) the decision;

(B) the reasons for the decision;

(C) a notice of any right of administrative or judicial review available to the Parties; and

(D) the time limits for filing an appeal or requesting a review.

(j) The presiding officer's order shall be based on the facts appearing in the agency's files, the facts presented in evidence at any hearing, and a copy of the presiding officer's order shall be promptly mailed to each of the Parties.

(k) The division may delegate the role of presiding officer to a qualified hearing examiner, including an assistant attorney general.

(4) Following any appeal, to the extent an Operator remains in violation of Section 65A-17-302, the division may issue a cessation order, under Section R652-21-1302 without first conducting an inspection as would otherwise be required.

### **R652-21-1202. Right of Entry.**

(1) The division and its representatives may enter upon and through any Great Salt Lake Element or Mineral operation.

(2) The division and its representatives may inspect any monitoring equipment, water metering equipment, operations method or technology, or reclamation and have full access to and may copy any records required to be maintained by an Operator.

(3) The division and its representatives may take samples from any stage of operations or area of operations.

(4) When the division exercises its right of entry under Rule R652-21, a search warrant is not required, including when an inspection requires entry into a building or facility.

(5) The division and its representatives may exercise these rights at commercially reasonable times, without advance notice, upon presentation of appropriate credentials.

### **R652-21-1203. Inspection Program.**

(1) The division shall conduct an average of at least one on-site or aerial inspection per year of each active or inactive Great Salt Lake Element or Mineral operation to ensure effective enforcement.

(2) An inspection is an on-site or aerial review of an Operator's compliance with all permit, surface use, and Operations Royalty Agreement conditions and requirements imposed under Rule R652-21 or applicable statutes, within the entire area disturbed or affected by the Operator's operations.

(3) Aerial inspections shall be conducted in a manner that reasonably ensures the identification and documentation of conditions at each operation, including adjacent conditions and operational input and discharge points.

(4) The division shall investigate any potential violation observed during an aerial inspection by conducting an on-site inspection within three days of the aerial inspection.

(5) The inspections allowed for under Rule R652-21 shall also:

(a) be carried out on an irregular basis, so as to monitor compliance at all operations, including those which operate nights, weekends, or holidays;

(b) occur without prior notice to the Operator or any agent or employee of the Operator, except for necessary on-site meetings; and

(c) include the prompt filings of inspection reports adequate to enforce the requirements of Rule R652-21 and Sections 65A-6-4 and 65A-17.

### **R652-21-1204. Availability of Records.**

(1) Subject to applicable law, the division shall make available copies of all documents relating to applications for and approvals of existing, new, or revised operations and all documents relating to inspection and enforcement actions.

(2) Copies of all documents relating to Great Salt Lake Element or Mineral operations which the division classifies as public shall be made available to the public until at least five years after expiration of the period during which the subject operation is active or is covered by any portion of a reclamation bond.

(3) In preparation for any hearings or enforcement proceedings, the division may enter into agreements regarding procedures for the special handling of investigative and enforcement reports and other related materials.

### **R652-21-1205. Compliance Conference.**

(1) An Operator may request an on-site compliance conference with an authorized representative of the division to review the compliance status of any condition, methodology, or practice proposed at any Great Salt Lake Element or Mineral Operation.

(2) The division may, in its discretion, accept or deny any request to conduct a compliance conference.

(3) The authorized representative at any compliance conference will review the proposed conditions and practices to advise whether any such condition or practice may become a violation of any requirement of applicable statute, rule, contract, or Operations Royalty Agreement term or condition.

(4) Neither the holding of a compliance conference, nor any opinion given by the authorized representative of the division, shall affect:

(a) any rights or obligations of the division or the Operator with respect to any inspection, notice of violation, or cessation order, whether before or after the compliance conference; or

(b) the validity of any notice of violation or cessation order issued with respect to any condition, methodology, or practice reviewed at the compliance conference.

#### **R652-21-1300. Notices of Violation.**

(1) The division shall issue a notice of violation if, on the basis of a division inspection, it finds a violation of any condition of operations, applicable statutes, rules, or contractual provisions.

(2) A notice of violation shall be issued to the Operator or its agent setting a reasonable time, not to exceed 60 days, for the abatement of the violation and providing an opportunity for a conference with the division.

(3) A notice of violation shall be in writing, signed by an authorized representative of the division, and will set forth with specificity:

(a) the nature of the violation;

(b) the remedial action required, which may include interim steps;

(c) a time for abatement, which may include time for accomplishment of interim steps; and

(d) a description of the operations to which the notice of violation applies.

(4) After issuance of the notice of violation, and within the 60 day abatement period, if good cause exists, the division may provide the Operator with an opportunity to discuss operational challenges preventing the remedial action and time for abatement.

(5) If, following issuance of a notice of violation, the Operator fails to meet any time set for abatement, fails to completely abate the violation, or fails to accomplish an interim step, the division shall issue a cessation order under Section R652-21-1302.

(6) The division shall terminate a notice of violation by written notice to the Great Salt Lake Operator when the division determines the violation has been abated.

(7) Termination of a notice of violation does not affect the right of the division to pursue any contractual remedies under an Operations Royalty Agreement.

#### **R652-21-1301. Pattern of Violation.**

(1) The Director or authorized delegate may determine a pattern of violations exists or has existed, based upon two or more division inspections of an operation within a 12 month period, after considering the circumstances, including:

(a) the number of violations attributable to the same or related requirements of applicable statute, regulation, or contractual provision;

(b) the number of violations attributable to separate requirements of applicable statute, regulation, or contractual provision;

(c) the degree of severity of the identified violations; and

(d) the extent to which the violations were isolated departures from lawful conduct.

(2) If, after review, the Director or authorized delegate determines a pattern of violations exists or has existed, and that each violation was caused by the same Operator, the division shall initiate informal adjudicative proceedings under the Utah Administrative Procedures Act or initiate an action in a court of competent jurisdiction for the Operator to show cause why any applicable permit, lease, or Operations Royalty Agreement should not be canceled, revoked, or rescinded.

(3) Any order resulting from an adjudicative proceeding is a notice of agency action and may be challenged or appealed under the Utah Administrative Procedures Act.

#### **R652-21-1302. Cessation Orders.**

(1) The division shall immediately order a cessation of all operations if it finds, based on any division inspection, that a violation of any condition of operations, applicable statutes, rules, or contractual provisions:

(a) creates an imminent danger to the public's health, safety, or welfare;

(b) causes, or can reasonably be expected to cause, significant, imminent environmental harm to sovereign land or Great Salt Lake Natural Resources; or

(c) consists of any operation or reclamation activity on Great Salt Lake conducted by any person or entity without a valid permit, lease, Operations Royalty Agreement, or Sampling Royalty Agreement.

(2) If a notice of violation has been issued under Section R652-21-1300 and the Operator fails to abate the violation within the abatement period, the division shall immediately issue a cessation order.

(3) A cessation order shall require the Operator to immediately take all steps the division considers necessary to abate the identified violations.

(4) A cessation order shall be issued to the Operator or its agent.

(5) A cessation order shall be in writing, signed by the authorized representative of the division, and will set forth with specificity:

(a) an order mandating the cessation of all operations;

(b) the nature of the violation;

(c) the remedial action or affirmative obligation required, which may include interim steps; and

(d) a time for abatement, which may include time for accomplishment of interim steps.

(6) A cessation order issued by the division shall remain in effect until the violation has been completely abated or until the cessation order is vacated, modified or terminated in writing by the division.

(7) If the cessation order does not completely abate the imminent danger or harm posed in the most expeditious manner possible, the division may pursue further remedies, including filing an action in a court of competent jurisdiction.

## NOTICES OF PROPOSED RULES

(8) Any cessation order is a notice of agency action and may be challenged or appealed under applicable agency review or the Utah Administrative Procedures Act.

(9) Reclamation operations and other activities intended to protect the public health, safety, and the environment shall continue during the period of the cessation order unless otherwise provided in the cessation order.

### **R652-21-1400. Emergency Trigger Purpose and Authority.**

Sections R652-21-1400 through R652-21-1406 are promulgated pursuant to Section 65A-17-202 requiring the division to make rules providing the procedures the division shall follow under the Emergency Trigger.

Under the Emergency Trigger, the division shall ensure the emergency management responsibilities in Section 65A-17-202 are met.

### **R652-21-1401. Emergency Trigger.**

(1) If salinity concentrations fall below 90 g/L or exceed 150 g/L, measured and reported in accordance with best practices as recommended by the Salinity Advisory Committee, the Salinity Advisory Committee may make a recommendation to the division that the conditions necessary for reaching the Emergency Trigger have been met.

(2) The division may, upon consultation with the Great Salt Lake Commissioner, declare the conditions necessary for reaching the Emergency Trigger have been met.

### **R652-21-1402. Emergency Trigger Duties of the Division.**

Upon reaching the Emergency Trigger, and if the division finds the following actions will directly contribute to improved ecological conditions required for healthy brine shrimp and brine fly reproduction:

(1) the division may, in its sole discretion, construct, operate, modify, and maintain the adaptive management berm and any additional berms, dikes, structures, or management systems, if in a manner consistent with Section 65A-17-202 and the public trust;

(2) the division may enter into agreements as necessary to provide for the construction of all or a portion of a berm, dike, system, or structure, if the division finds such agreements are consistent with the public trust;

(3) the division may curtail mineral production for leases containing provisions contemplating curtailment or similar contractual remedies;

(4) the division may, at its sole discretion, withdraw mineral leases over:

(a) portions of Great Salt Lake;

(b) specific methods of extraction; or

(c) specific Great Salt Lake Elements and Minerals.

(5) the division may, at its sole discretion, decline to issue a new permit, authorization, or agreement; and

(6) the division may require Operators to implement extraction methods which do not deplete water or brine, mitigate to offset Brine Depletion, or implement Emergent Technologies.

### **R652-21-1403. Emergency Trigger Record of Decision.**

Upon reaching the Emergency Trigger, a record of decision, as described in Section R652-9-200, summarizing the division's action and relevant facts shall be published on the division's website.

### **R652-21-1404. Third-Party Claims.**

The division is not liable for a third-party claim resulting from the division's management actions under the Emergency Trigger.

### **R652-21-1405. Emergency Trigger Termination.**

Upon consultation with the Great Salt Lake Commissioner and the Salinity Advisory Committee, the Director shall, upon 12 consecutive months of conditions that support a termination of the Emergency Trigger, declare the conditions necessary for termination of the Emergency Trigger have been met.

### **R652-21-1406. Force Majeure.**

(1) Upon reaching the Emergency Trigger, the division may invoke force majeure in contracts, mineral leases, and royalty agreements which contain such provisions.

(2) If force majeure is invoked, the parties to any Operations Royalty Agreement shall:

(a) invoke the force majeure provisions within their respective agreements; and

(b) participate in an informal conference with the Director and any other affected Operators to arrive at a plan for the scope and duration of the cessation of operations caused by the Emergency Trigger.

(3) The division shall promptly waive force majeure once salinity conditions improve to levels below the Emergency Trigger threshold.

(4) If force majeure is invoked, the affected Operator is relieved from performance of any contractual provision requiring production to hold any Operations Royalty Agreement for a maximum of two years.

(5) If force majeure is invoked and the Emergency Trigger persists beyond two years, the division shall terminate the Operations Royalty Agreement and require the Operator to engage in new contracts where the Operator represents and warrants future operations will not amount to a net depletion of water.

(6) If force majeure is invoked, an Operator may continue to process brines already extracted and may sell products derived from those brines.

**KEY: mineral extraction; Great Salt Lake.**

**Date of Last Change: 2024**

**Authorizing, and Implemented or Interpreted Law: 65A-1-4; 65A-6-2; 65A-6-4; 65A-17-102; 65A-17-201; 65A-17-202; 65A-17-203; 65A-17-302; 65A-17-303; 65A-17-304; and 65A-17-306.**

**NOTICE OF SUBSTANTIVE CHANGE**

**TYPE OF FILING:** New

**Rule or Section Number:**

**R657-54a**

**Filing ID: 56695**

**Agency Information**

<b>1. Title catchline:</b>	Natural Resources, Wildlife Resources	
<b>Building:</b>	DNR Complex	
<b>Street address:</b>	1594 W North Temple	
<b>City, state:</b>	Salt Lake City, UT	
<b>Mailing address:</b>	PO Box 146301	
<b>City, state and zip:</b>	Salt Lake City, UT 84414-6301	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Staci Coons	801-450-3093	stacicoons@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R657-54a. Taking Wild Turkey
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being filed to replace Rule R657-54, Taking Wild Turkey, which expired due to a five-year review not being filed.  All text is consistent with the original rule.
<b>4. Summary of the new rule or change:</b>
Under authority of Sections 23A-2-304 and 23A-2-305, the Wildlife Board has established this rule for taking wild turkey. This new rule replaces Rule R657-54, Taking Wild Turkey, and is substantively the same.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
Rule R657-54a is replacing a rule that already existed and is substantively the same therefore, the Division of Wildlife Resources (Division) determines that these changes can be initiated within the current workload and resources of the Division and does not believe that these amendments would create a cost or savings impact to the state budget or the Division's budget since the changes will not increase workload and can be carried out with existing budget.
<b>B) Local governments:</b>
Rule R657-54a is replacing a rule that already existed and is substantively the same therefore, local governments are not directly or indirectly impacted by this rule nor does this rule create a situation requiring services from local governments.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
Rule R657-54a is replacing a rule that already existed and is substantively the same therefore, this rule will not directly impact small businesses because a service is not required of them.

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

Rule R657-54a is replacing a rule that already existed and is substantively the same therefore, this rule will not directly impact non-small businesses because a service is not required of them.

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

Rule R657-54a is replacing a rule that already existed and is substantively the same therefore, the new rule does not have the potential to impact other persons that hunt wild turkey in Utah, nor is a service required of them.

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

The Division determines that this new rule may not create additional costs for those individuals wishing to hunt wild turkey in Utah because it simply reinstates an expired 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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this fiscal analysis.

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a measurable fiscal impact to businesses.

**Citation Information**

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

Section 23A-2-304	Section 23A-2-305	
-------------------	-------------------	--

**Incorporations by Reference Information**

**7. Incorporations by Reference:**

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

<b>Official Title of Materials Incorporated (from title page)</b>	Title 50 Wildlife and Fisheries Part 20 – Migratory Bird Hunting
---	--



<b>Publisher</b>	US Government
<b>Issue or Version</b>	2003

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	10/01/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	10/08/2024
---	------------

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	J. Shirley, Division Director	<b>Date:</b>	08/07/2024
---	-------------------------------	--------------	------------

**R657. Natural Resources, Wildlife Resources.**

**R657-54a. Taking Wild Turkey.**

**R657-54a-1. Purpose and Authority.**

(1) Under authority of Sections 23A-2-304 and 23A-2-305 and in accordance with 50 CFR 20, 2003 edition, which is incorporated by reference, the Wildlife Board has established this rule for taking wild turkey.

(2) Specific season dates, bag and possession limits, areas open, number of permits and other administrative details that may change annually are published in the guidebook of the Wildlife Board for taking upland game and wild turkey.

**R657-54a-2. Definitions.**

(1) Terms used in this rule are defined in Section 23A-1-101.

(2) In addition:

(a) "Bait" means shelled, shucked or unshucked corn, wheat or other grain, salt or other feed that lures, attracts or entices wild turkey.

(b) "Baiting" means the direct or indirect placing, exposing, depositing, distributing, or scattering of salt, grain, or other feed that could serve as a lure or attraction for wild turkey to, on, or over any areas where hunters are attempting to take them.

(c) "CFR" means the Code of Federal Regulations.

(d) "Falconry" means the sport of taking quarry by a trained raptor.

(e) "Fall season permit" means any wild turkey hunting permit having season dates on or between August 1 to March 14, excluding turkey permits issued pursuant to Rule R657-41 and turkey control permits issued pursuant to Section R657-69-6.

(f) "Night vision device" means any device that enhances visible or non-visible light, including: night vision, thermal imaging, infrared imaging, or electronics that enhance the visible or non-visible light spectrum.

(g) "Pre-charged pneumatic air rifle" means a rifle that fires a single projectile with compressed air released from a chamber:

(i) built into the rifle; and

(ii) pressurized at a minimum of 2,000 pounds per square inch from an external high compression device or source, such as a hand pump, compressor, or scuba tank firing a single:

(A) broadhead tipped bolt or arrow; or

(B) pellet or slug during fall turkey season that:

(I) is .25 caliber or larger;

(II) weighs 18 grains or more; and

(III) is fired at a velocity to produce at least 30 foot-pounds of energy at the muzzle.

(h) "Spring season permit" means any wild turkey hunting permit having season dates on or between March 15 to July 31, excluding turkey permits issued pursuant to Rule R657-41 and turkey control permits issued pursuant to Section R657-69-6.

(i) "Wild Turkey" as used in this rule means a wild, free-ranging turkey and does not include a privately-owned wild turkey, domestic turkey, or wild-domestic hybrids.

**R657-54a-3. Obtaining Permits for Wild Turkey.**

(1) A person must possess or obtain a valid hunting or combination license to apply for or obtain a wild turkey permit.

(2) General season wild turkey permits are issued over-the-counter consistent with this rule and the guidebook of the Wildlife Board for taking upland game and wild turkey.

(3) Limited entry permits for wild turkey are issued pursuant to Section R657-62-25.

(4) Wild turkey control permits and wild turkey control permit vouchers are issued pursuant to Rule R657-69.

(5) Wild turkey conservation and sportsman's permits are issued pursuant to Rule R657-41.

(6) Wild turkey permits available through the Expo are issued pursuant to Rule R657-55.

(7) Wild turkey poaching-reported reward permits are issued pursuant to Rule R657-51.

NOTICES OF PROPOSED RULES

**R657-54a-4. Authorized Weapons.**

Wild turkey may be taken only with:

- (1) Archery equipment, including a draw-lock, or a crossbow using broadhead tipped arrows or bolts;
- (2) a shotgun, firing shot sizes BB and smaller diameter;
- (3) a rimfire firearm during any fall season permit; or
- (4) a pre-charged pneumatic air rifle during any fall season permit.

**R657-54a-5. Shooting Hours.**

- (1) Wild turkey may be taken only between one-half hour before official sunrise through one-half hour after official sunset.
- (2) A person must add to or subtract from the official sunrise and sunset depending on the geographic location of the state.
- (3) Specific shooting hours shall be provided in a time zone map in the guidebook of the Wildlife Board for taking upland game and wild turkey.

**R657-54a-6. State Parks.**

- (1) Hunting of any wildlife is prohibited within the boundaries of all state park areas, except those areas designated open to hunting by the Division of State Parks in Section R651-614-4.
- (2) Hunting with rifles and handguns in state park areas designated open is prohibited within one mile of all park facilities including buildings, camp or picnic sites, overlooks, golf courses, boat ramps, and developed beaches.
- (3) Hunting with shotguns, crossbows or archery tackle is prohibited within one-quarter mile of the stated areas.

**R657-54a-7. Falconry.**

Falconers may not release a raptor on wild turkeys during the spring seasons. Falconers may release a raptor on wild turkeys during the fall season, as published in the guidebook of the Wildlife Board for taking upland game and wild turkey.

**R657-54a-8. Live Decoys and Electronic Calls.**

A person may not take a wild turkey by the use or aid of live decoys, robotic decoys, night vision devices, drones, recorded turkey calls or sounds, or electronically amplified imitations of turkey calls.

**R657-54a-9. Baiting.**

A person may not hunt turkey using bait, or on or over any baited area where a person knows or reasonably should know that the area is or has been baited. An area is considered baited for 10 days after bait is removed, or 10 days after bait in an area is eaten.

**R657-54a-10. Sitting or Roosting Turkeys.**

A person may not take or attempt to take a wild turkey sitting or roosting in a tree, power pole, or other elevated structure.

**R657-54a-11. Tagging Requirements.**

- (1) A person that takes a wild turkey must tag the carcass, as provided in Section 23A-5-309, immediately upon taking possession of the carcass.
- (2) To tag a carcass, a person shall:
  - (a) completely detach the tag from the license or permit;
  - (b) completely remove the appropriate notches to correspond with:
    - (i) the date the wild turkey was taken;
    - (ii) the sex of the wild turkey; and
  - (c) attach the tag to the carcass so that the tag remains securely fastened and visible.
- (3) A person may not:
  - (a) remove more than one notch indicating date or sex; or
  - (b) tag more than one carcass using the same tag.
- (4) A person may not hunt or pursue a wild turkey after:
  - (a) shooting and retrieving the bird;
  - (b) the tag is detached from the permit;
  - (c) any of the notches have been removed from the tag.

**R657-54a-12. Identification of Species and Sex.**

The head and beard must remain attached to the carcass of a wild turkey while being transported.

**R657-54a-13. Use of Dogs.**

- (1) An individual may not use or permit a dog to harass, pursue, or take wild turkey unless otherwise allowed for in Title 23A, the Wildlife Resources Code of Utah, or the administrative rules or guidebooks of the Wildlife Board.
- (2) Dogs may be used to locate and retrieve wild turkey during open wild turkey hunting seasons.
- (3) Dogs are generally allowed on state wildlife management and waterfowl management areas, subject to the following conditions:
  - (a) dogs are not allowed on the following state wildlife management areas and waterfowl management areas between March 10 and August 31 annually or as posted by the division:

- (i) Annabella;
- (ii) Bear River Trenton Property Parcel;
- (iii) Bicknell Bottoms;
- (iv) Blue Lake;
- (v) Browns Park;
- (vi) Bud Phelps;
- (vii) Clear Lake;
- (viii) Desert Lake;
- (ix) Farmington Bay;
- (x) Harold S. Crane;
- (xi) Hatt's Ranch;
- (xii) Howard Slough;
- (xiii) Huntington;
- (xiv) James Walter Fitzgerald;
- (xv) Kevin Conway;
- (xvi) Locomotive Springs;
- (xvii) Manti Meadows;
- (xviii) Mills Meadows;
- (xix) Montes Creek;
- (xx) Nephi;
- (xxi) Ogden Bay;
- (xxii) Pahvant;
- (xxiv) Public Shooting Grounds;
- (xxv) Redmond Marsh;
- (xxvi) Richfield;
- (xxvii) Roosevelt;
- (xxviii) Salt Creek;
- (xxix) Scott M. Matheson Wetland Preserve;
- (xxx) Steward Lake;
- (xxxi) Timpie Springs;
- (xxxii) Topaz Slough;
- (xxxiii) Vernal; and
- (xxxiv) Willard Bay.

(b) the division may establish special restrictions for Division-managed properties, such as on-leash requirements and temporary or locational closures for dogs, and post them at specific division properties and at Regional offices;

(c) organized events or group gatherings of 25 or more individuals that involve the use of dogs, such as dog training or trials, that occur on Division properties may require a special use permit as described in Rule R657-28;

(d) dog training may be allowed in designated areas on Lee Kay Center and Willard Bay WMA by the division without a special use permit; and

(e) dogs are only allowed on the Nature Trail within the Hasenyager Nature preserve and must be on a leash.

(4) Wild turkeys may not be used for any dog training exercises.

(5) Dogs may be used to locate wild turkey as part of division sanctioned survey efforts.

**R657-54a-14. Closed Areas.**

A person may not hunt wild turkey in any area posted closed by the division or any of the following areas:

(1) Salt Lake Airport boundaries as posted;

(2) incorporated municipalities;

(a) many incorporated municipalities prohibit the discharge of firearms and other weapons. Check with the respective city officials for specific boundaries and limitations;

(3) all State Waterfowl Management Areas except Browns Park and Stewart Lake;

(4) all National Wildlife Refuges unless declared open by the managing authority; and

(5) military installations, except as otherwise provided under Rule R657-66, are closed to hunting and trespassing.

**R657-54a-15. Possession of Live Protected Wildlife.**

It is unlawful for any person to hold in captivity at any time any protected wildlife, except as provided by Title 23A, the Wildlife Resources Code of Utah, or any rules of the Wildlife Board. Every wild turkey wounded by hunting and reduced to possession by the hunter shall be immediately killed and tagged pursuant to Section R657-54a-11.

**R657-54a-16. Spotlighting.**

(1) Except as provided in Section 23A-1-204:

(a) a person may not use or cast the rays of any spotlight, headlight, or other artificial light to locate wild turkeys while having in their possession a firearm or other weapon or device that could be used to take or injure wild turkey; and

NOTICES OF PROPOSED RULES

(b) the use of a spotlight or other artificial light in a field, woodland or forest where wild turkey are generally found is probable cause of attempting to locate protected wildlife.

(2) This section does not apply to:

(a) the use of the headlights of a motor vehicle or other artificial light in a usual manner where there is no attempt or intent to locate protected wildlife.

**R657-54a-17. Exporting Wild Turkey from Utah.**

A person may export wild turkey or their parts from Utah only if:

(1) The person who harvested the wild turkey accompanies it and possess a valid permit corresponding to the tag; or

(2) The person exporting the wild turkey or its parts, if it is not the person who harvested the wild turkey, has obtained a shipping permit from the division.

**R657-54a-18. Waste of Game.**

(1) A person may not waste or permit to be wasted or spoiled a wild turkey or their parts.

(2) A person may not kill or cripple a wild turkey without making a reasonable effort to retrieve the wild turkey.

**R657-54a-19. Purchasing or Selling Wild Turkey Parts.**

(1) A person may only purchase, sell, offer or possess for sale, barter, exchange or trade any wild turkey or its parts as follows:

(a) Untanned or tanned hides, feather, bone, nail, or beak of legally taken wild turkey may only be sold by the hunter who harvested the wild turkey.

(b) An individual hunter may only sell one possession limit as defined by the Wildlife

Board and guidebook for upland game and turkey per year.

(c) Resale may only occur as derivative products such as artificial fishing flies.

(2) A person selling or purchasing untanned or tanned hides, feather, bone, nail, or beak of legally taken wild turkey shall keep transaction records stating:

(a) the name and address of the person who harvested the wild turkey;

(b) the transaction date; and

(c) the hunting license number of the person who harvested the wild turkey.

**R657-54a-20. Wild Turkey Poaching-Reported Reward Permits.**

Wild turkey poaching-reported reward permits are issued pursuant to Rule R657-51.

**R657-54a-21. Season Dates, Bag and Possession Limits, and Areas Open.**

(1) Season dates, bag and possession limits, areas open, and number of permits for taking wild turkey are provided in the guidebook of the Wildlife Board for taking upland game and wild turkey.

(2) A person may not obtain or possess more than:

(a) one wild turkey permit during the spring season annually; and

(b) three wild turkey permit during the fall season annually.

**KEY: wildlife, wild turkey, game laws**

**Date of Last Change: 2024**

**Authorizing, and Implemented or Interpreted Law: 23A-2-304; 23A-2-305**

**NOTICE OF SUBSTANTIVE CHANGE**

**TYPE OF FILING:** New

**Rule or Section Number:**

**R657-68a**

**Filing ID: 56696**

**Agency Information**

<b>1. Title catchline:</b>	Natural Resources, Wildlife Resources
<b>Building:</b>	DNR Complex
<b>Street address:</b>	1594 W North Temple
<b>City, state:</b>	Salt Lake City, UT
<b>Mailing address:</b>	PO Box 146301
<b>City, state and zip:</b>	Salt Lake City, UT 84414-6301

<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Staci Coons	801-450-3093	stacicoons@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R657-68a. Trial Hunting Authorization
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being filed to replace Rule R657-68, Trial Hunting Authorization, which expired due to a five-year review not being filed.  All text is consistent with the original rule.
<b>4. Summary of the new rule or change:</b>
Pursuant to Sections 23A-2-304 and 23A-2-305,, this rule implements the trial hunting authorization program established in Section 23A-4-701 to expand public participation in hunting sports by allowing a person to temporarily obtain specified hunting licenses and permits and participate in hunting activities on a trial basis without first satisfying regular hunter education requirements.  his new rule replaces Rule R657-68, Trial Hunting Authorization, and is substantively the same.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
Rule R657-68a is replacing a rule that already existed and is substantively the same therefore, the Division of Wildlife Resources (Division) determines that these changes can be initiated within the current workload and resources of the Division, therefore, the Division does not believe that these amendments would create a cost or savings impact to the state budget or the Division's budget since the changes will not increase workload and can be carried out with existing budget.
<b>B) Local governments:</b>
Rule R657-68a is replacing a rule that already existed and is substantively the same therefore, local governments are not directly or indirectly impacted by this rule nor does this rule create a situation requiring services from local governments.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
Rule R657-68a is replacing a rule that already existed and is substantively the same therefore, this rule will not directly impact small businesses because a service is not required of them.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>
Rule R657-68a is replacing a rule that already existed and is substantively the same therefore, this rule will not directly impact non-small businesses because a service is not required of them.
<b>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 <i>agency</i>):</b>
Rule R657-68a is replacing a rule that already existed and is substantively the same therefore, this new rule does not have the potential to impact other persons that hunt in Utah, nor is a service required of them.

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

The Division determines that this new rule may not create additional costs for those individuals wishing to participate in the Trial Hunting Authorization program in Utah because it simply reinstates an expired 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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this fiscal analysis.

After conducting a thorough analysis, it was determined that this proposed rule will not result in a measurable fiscal impact to businesses.

**Citation Information**

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

Section 23A-2-304	Section 23A-2-305	Section 23A-4-701
-------------------	-------------------	-------------------

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	10/01/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	10/08/2024
---	------------

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	J. Shirley, Division Director	<b>Date:</b>	08/07/2024
---	-------------------------------	--------------	------------

**R657. Natural Resources, Wildlife Resources.  
R657-68a. Trial Hunting Authorization.**

**R657-68a-1. Purpose and Authority.**

Pursuant to Sections 23A-2-304 and 23A-2-305, this rule implements the trial hunting authorization program established in Section 23A-4-701 to expand public participation in hunting sports by allowing a person to temporarily obtain specified hunting licenses and permits and participate in hunting activities on a trial basis without first satisfying regular hunter education requirements.

**R657-68a-2. Definitions.**

- (1) Terms used in this rule are defined in Section 23A-1-101.
- (2) In addition:
  - (a) "Commercial hunting area" means a parcel of land where privately owned game birds are released under Section 23A-12-202 and Rule R657-22 for allowing hunters to take them for a fee.
  - (b) "Division drawing" means a random selection process administered by the division or under its authority for allocating hunting permits to the public.
    - (i) "Division drawing" includes the wildlife expo permit drawing administered under Rule R657-55.
    - (c) "Multi-year license" means a license issued by the division under Section R657-45-3 that is valid for a period exceeding 365 days.
    - (d) "Supervising hunter" means a person qualified under Subsection R657-68a-5(1)(b) that accompanies a trial hunter while participating in hunting activities.
    - (e) "Trial hunter" means a person who possesses a valid hunting license or permit obtained with a trial hunting authorization pursuant to this rule.
    - (f) "Trial hunting authorization" means a document issued by the division authorizing the holder to obtain and use specified hunting licenses and permits without having completed an approved hunter education course, subject to the qualifications, requirements and limitations set forth in this rule.
    - (g) "Written consent" means a written or typed document containing the:
      - (i) full name, date of birth, and home address of the trial hunter;
      - (ii) full name, home address, and phone number of the supervising hunter;
      - (iii) nature of the planned hunting activity and the general area where it will occur;
      - (iv) parent or legal guardian's consent for the:
        - (A) trial hunter to participate in the described hunting activity; and
        - (B) supervising hunter to transport and accompany the trial hunter in the activity; and
        - (v) name, signature, and phone number of the authorizing parent or legal guardian.

**R657-68a-3. Obtaining a Trial Hunting Authorization.**

- (1) Upon application, the division may issue a trial hunting authorization to a resident or nonresident who:
  - (a) is 11 years of age or older at the time of application;
  - (b) is eligible under state and federal law to possess a firearm, muzzleloader, bow and arrow, or crossbow;
  - (c) is born after December 31, 1965 and has not completed an approved hunter education course; and
  - (d) successfully completes an abbreviated online course on trial hunting program requirements and hunting ethics and safety.
- (2) The division may charge a handling fee for a trial hunting authorization.

**R657-68a-4. Effect and Term of a Trial Hunting Authorization.**

- (1)(a) A person who obtains a trial hunting authorization will receive an accompanying registration number to be used in lieu of a hunter education number when applying for or purchasing a hunting license or permit authorized in Subsection (b).
- (b) A person who possesses a trial hunting authorization may apply for and purchase the following Utah hunting licenses and permits, notwithstanding the hunter education requirements in Section 23A-4-1001 and Rule R657-23:
  - (i) hunting license, excluding multi-year licenses;
  - (ii) combination license, excluding multi-year licenses;
  - (iii) all hunting permits, excluding the following big game permits allocated through a division drawing:
    - (A) premium limited entry;
    - (B) limited entry;
    - (C) once-in-a-lifetime;
    - (D) cooperative wildlife management unit;
    - (E) dedicated hunter; and
    - (F) sportsman.
- (2)(a) A trial hunting authorization:
  - (i) is valid for a single, three year term, except as provided in Subsection (6); and
  - (ii) shall immediately terminate upon the holder successfully completing an approved hunter education course, as provided in Section 23A-4-1001 and Rule R657-23.
  - (b) A person may not obtain more than one trial hunting authorization in a lifetime.
- (3) A trial hunting authorization shall be considered an "approved hunter education course" under Subsection 23A-12-202(3)(a)(ii) for the exclusive and limited purpose of hunting on a commercial hunting area.
  - (a) A person who hunts on a commercial hunting area with a trial hunting authorization is subject to the requirements in Section R657-68a-5.

## NOTICES OF PROPOSED RULES

(4)(a) A person who possesses a current trial hunting authorization may not participate in the Hunter Mentoring Program, Rule R657-67, as a hunting mentor.

(b) A person who possesses a current trial hunting authorization may participate in the Hunter Mentoring Program, Rule R657-67, as a qualifying minor, as hereafter provided.

(i) A trial hunting authorization will be recognized by the division as a "hunter education program" under Subsection R657-67-3(1)(b) for the exclusive and limited purpose of a qualifying minor participating in the Hunter Mentoring Program.

(ii) Notwithstanding the big game permit limitations in Subsection R657-68a-4(1)(b)(iii), a qualifying minor possessing a current trial hunting authorization may share any big game permit authorized in the Hunter Mentoring Program rule.

(iii) Both the qualifying minor and hunting mentor are subject to the this rule and the Hunter Mentoring Program rule when a hunting permit is shared under Section R657-67-3 with a qualifying minor possessing a current trial hunting authorization.

(5) A person that applies for a big game hunting permit with a trial hunting authorization is subject to the minimum age requirements set forth in Section 23A-4-703.

(6)(a) A trial hunting authorization that expires after a hunting permit application is filed in a division drawing shall remain valid to the date the permit is issued for the exclusive purpose of receiving and using the permit.

(i) A trial hunting authorization extended under Subsection (6)(a) beyond the prescribed three year term may not be used during the extension period to obtain any other hunting license or permit.

(b) A person that obtains a license or permit with a valid trial hunting authorization that thereafter expires before the conclusion of the hunting season assigned to that license or permit may use the license or permit through the entire season, subject to the limitations and conditions set forth in Section R657-68a-5.

(c) A person that successfully completes an approved hunter education course before using a hunting license or permit obtained with a trial hunting authorization is not subject to the limitations and conditions set forth in Section R657-68a-5, provided proof of hunter education compliance is carried on the person while hunting.

### **R657-68a-5. Using a Hunting License or Permit Obtained with a Trial Hunting Authorization.**

A person that obtains a hunting license or permit with a trial hunting authorization issued under Section R657-68a-3 may use the license or permit, provided they are:

(1) 12 years of age or older; and

(2) accompanied, as defined in Subsection 23A-4-708(1), in the field at all times while hunting by a resident or nonresident, supervising hunter who:

(a) is 21 years of age or older;

(b) is eligible under state and federal law to possess a firearm and archery equipment;

(c) possesses a current Utah hunting or combination license;

(d) has satisfied applicable hunter education requirements under Section 23A-4-1001; and

(e) obtains the written consent of the parent or legal guardian when accompanying a trial hunter that is under 18 years of age.

### **R657-68a-6. Supervising Hunter Responsibilities.**

A supervising hunter that escorts a trial hunter under Subsection R657-68a-5(1)(b) shall:

(1) accompany, as defined in Subsection 23A-4-708(1), the trial hunter at all times in the field while hunting;

(2) not accompany more than two trial hunters in the field at any point in time;

(3) provide the trial hunter direct supervision and instruction on hunting regulations, ethics and safety; and

(4) possess on their person a valid Utah hunting or combination license issued in their name; and

(5) possess the written consent of the parent or legal guardian when accompanying a trial hunter under 18 years of age.

### **R657-68a-7. Violation and Discipline.**

(1)(a) A trial hunter may not take protected wildlife under authority of a license or permit obtained with a trial hunting authorization, unless accompanied at all times in the field by a supervising hunter satisfying the requirements of Subsection R657-68a-5(1)(b).

(b) A person may not take game birds on a commercial hunting area under authority of a trial hunting authorization, unless accompanied at all times in the field by a supervising hunter satisfying the requirements of Subsection R657-68a-5(1)(b).

(2) The division may refuse to issue a trial hunting authorization to a person that:

(a) fails to satisfy the eligibility criteria in Section R657-68a-3 or Subsection R657-68a-5(1)(a);

(b) provides false or misleading information in the application for a trial hunting authorization; or

(c) has engaged in conduct that results in a conviction, no contest plea, plea held in abeyance, or diversion agreement to a:

(i) violation of the Wildlife Resources Code, or the rules and guidebooks of the Wildlife Board; or

(ii) crime that when considered with the privileges granted in a trial hunting authorization bears a reasonable relationship to the person's ability or willingness to safely and responsibly participate in the program.

(3) A hunting license or permit is invalid when obtained with a trial hunting authorization that is acquired by fraud, deceit, or misrepresentation.

### **KEY: wildlife, game laws, hunter education**

**Date of Last Change: 2024**

**Authorizing, and Implemented or Interpreted Law: 23A-2-304; 23A-2-305; 23A-4-701**



**NOTICE OF SUBSTANTIVE CHANGE**

**TYPE OF FILING:** Amendment

**Rule or Section Number:**

**R671-103**

**Filing ID: 56698**

**Agency Information**

<b>1. Title catchline:</b>	Pardons (Board of), Administration	
<b>Street address:</b>	448 E Winchester St. #300	
<b>City, state</b>	Murray, UT	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jennifer Yim	801-261-6464	jmyim@agutah.gov
Amanda Montague	801-440-0545	amontague@agutah.gov
Zarah Borja	385-910-3215	zborja@agutah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R671-103. Attorneys
<b>3. Purpose of the new rule or reason for the change:</b>
This rule change is proposed as a result of an effort to regularly update administrative rules.
<b>4. Summary of the new rule or change:</b>
This proposed amendment clarifies qualifications of attorneys who may practice before the Board of Pardons and Parole. It allows the Board to exclude attorneys who have previously caused disruption to Board functions.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There is no anticipated cost or savings to the state budget, as this rule change is clerical in nature and will have no impact on how the Board functions.
<b>B) Local governments:</b>
There is no expected fiscal impact on local governments, as this rule change is clerical and clarifying in nature and will have no impact local governments.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
This rule does not affect small businesses and so has no expected fiscal impact, as this rule change is clerical and clarifying in nature and will have no impact small businesses.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
This rule change has no effect on non-small business and so has no expected financial impact, as this rule change is clerical and clarifying in nature and will have no impact on non-small businesses.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i> ):

NOTICES OF PROPOSED RULES

This rule amendment will have no fiscal impact on persons other than small businesses, non-small businesses, or state or local government entities, as this rule change is clerical and clarifying in nature and will have no impact on other persons mentioned above.

**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 entails no compliance costs for affected persons. If an attorney has been prohibited from practicing before the Board, a client need only retain a different attorney.

Even this will be a very rare occurrence.

**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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The, Administrative Director at the Board of Pardons and Parole, Jennifer Yim, 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 77-27-5	Section 78A-9-103	Section 77-27-9
-----------------	-------------------	-----------------

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	10/01/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	10/10/2024
---	------------

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	J. Scott Stephenson, Chair	<b>Date:</b>	08/02/2024
---	----------------------------	--------------	------------

**R671. Pardons (Board of), Administration.**

**R671-103. Attorneys.**

**R671-103-1. Attorneys.**

(1) Only persons ~~[attorneys]~~ licensed to practice law in the ~~[State of]~~ Utah may appear and represent an inmate, offender, or petitioner before the Board, except as otherwise provided in statute.

(2) A person may not act as an attorney or represent any inmate, offender, or petitioner before the Board if:

- (a) the person has been prohibited from doing so by Board order entered pursuant to the Board's inherent powers or this rule; or
- (b) the person is disbarred or suspended from the practice of law in Utah or any other jurisdiction.

(3) An attorney may not represent anyone in connection with a matter in which the attorney participated personally and substantially as a judge or other adjudicative officer or law clerk to such a person, or as an arbitrator, mediator or other third party neutral unless all parties to the matter give informed consent.

(4) An attorney who has formally served as a public officer or employee of the government shall not otherwise represent a client in connection with a matter in which the attorney participated personally and substantially as a public officer or employee, unless the appropriate government agency gives its informed consent, confirmed in writing, to the representation.

**R671-103-2. Prohibiting Attorney Appearance and Representation.**

(1) The Board may prohibit any attorney from representing any offender before the Board if the Board determines that the attorney:

- (a) has violated any federal, state or local law or ordinance;
- (b) is disbarred or suspended in Utah or any other jurisdiction;
- (c) is not currently authorized to practice law ~~[licensed by, or is not in good standing with, the Utah State Bar];~~
- (d) has violated any rule or regulation of the Department of Corrections regarding facility integrity or security;
- (e) has violated any of the Rules of Professional Responsibility as promulgated by the Utah Supreme Court; ~~[-]~~
- (f) has violated any of the Board's Administrative Rules ~~[-];~~ or
- (g) has previously caused disruption to Board functions.

**KEY: parole, inmates, attorneys**

**Date of Last Change: 2024**~~[September 29, 2014]~~

**Notice of Continuation: September 23, 2019**

**Authorizing, and Implemented or Interpreted Law: 77-27-5; 77-27-9; 78A-9-103**

**NOTICE OF SUBSTANTIVE CHANGE**

**TYPE OF FILING:** Amendment

**Rule or Section Number:**

**R671-104**

**Filing ID: 56700**

**Agency Information**

<b>1. Title catchline:</b>	Pardons (Board of), Administration	
<b>Street address:</b>	448 E Winchester St. #300	
<b>City, state</b>	Murray, UT	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jennifer Yim	801-261-6464	jmyim@agutah.gov
Amanda Montague	801-440-0545	amontague@agutah.gov
Zarah Borja	385-910-3215	zborja@agutah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R671-104. Language Access
<b>3. Purpose of the new rule or reason for the change:</b>
This amendment is due to a regular effort to update administrative rules.

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

This amendment eliminates the Board Chair as the recipient of interpreter performance appeals and substitutes the Board as an office.

**Fiscal Information**

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

**A) State budget:**

There is no anticipated cost or savings to the state budget as this rule change is clerical in nature and will have no impact on how the Board functions.

**B) Local governments:**

There is no expected fiscal impact on local governments as this rule change is clerical and clarifying in nature and will have no impact local governments.

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

This rule does not affect small businesses and so has no expected fiscal impact as this rule change is clerical and clarifying in nature and will have no impact small businesses.

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

This rule change has no effect on non-small business and so has no expected financial impact,as this rule change is clerical and clarifying in nature and will have no impact on non-small businesses.

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

This rule amendment will have no fiscal impact on persons other than small businesses, non-small businesses, or state or local government entities as this rule change is clerical and clarifying in nature and will have no impact on other persons mentioned above.

**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 entails no compliance costs for affected persons as this rule change is clerical and clarifying in nature and will have no impact 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**

<b>Fiscal Cost</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head comments on fiscal impact and approval of regulatory impact analysis:</b>			
The Administrative Director at the Board of Pardons and Parole, Jennifer Yim, has reviewed and approved this regulatory impact analysis.			

**Citation Information**

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Section 77-27-7		

**Public Notice Information**

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	J. Scott Stephenson, Chair	<b>Date:</b>	08/02/2024
---	----------------------------	--------------	------------

**R671. Pardons (Board of), Administration.**

**R671-104. Language Access.**

**R671-104-1. Language Access.**

- (1) The Board shall provide interpreters at Board hearings for non-English speaking or limited English proficiency offenders or victims.
- (2) The Department of Corrections shall indicate the need for an interpreter on the offender's profile in the computer system.
- (3) A non-English speaking or limited English proficiency offender or victim may request an interpreter for a hearing.
  - (a) Requests should be made at least 30 days before the hearing.
  - (b) Offender requests should be submitted with the hearing information form.
- (4) A hearing official may request an interpreter and continue the hearing if the hearing official has reservations about the offender's ability to communicate in English.
- (5) A hearing shall be continued if an interpreter is necessary, but not available.
- (6) If an offender has concerns about the effectiveness or conduct of the interpreter, the offender may appeal in writing to the Board ~~Chair~~ within 10 days of the Board's decision.
- (7) Individuals providing interpretation services for Board hearings shall:
  - (a) be certified or approved as an interpreter in the subject language by the Utah State Courts, Federal Courts or equivalent certification;
  - (b) be in good standing with the training and ethical standards of the certifying body;
  - (c) render a complete and accurate interpretation or sight translation, without altering, omitting, or adding anything to what is stated or written;
  - (d) be impartial and unbiased and refrain from conduct that may give an appearance of bias;
  - (e) disclose any real or perceived conflict of interest;
  - (f) protect the confidentiality of all privileged and other confidential information;
  - (g) abstain from giving legal advice or personal opinions to individuals for whom they are interpreting;
  - (h) report to the hearing official any difficulties with translation, or any reservations about being able to provide effective interpretation; and
  - (i) comply with all security requirements of the Department of Corrections.

**KEY: interpreters, languages, parole**

**Date of Last Change: 2024**~~[November 30, 2015]~~

**Notice of Continuation: September 8, 2020**

**Authorizing, and Implemented or Interpreted Law: 77-27-7**

NOTICE OF SUBSTANTIVE CHANGE		
<b>TYPE OF FILING:</b> Amendment		
<b>Rule or Section Number:</b>	<b>R671-309</b>	<b>Filing ID: 56699</b>

**Agency Information**

<b>1. Title catchline:</b>	Pardons(Board of), Administration	
<b>Street address:</b>	448 E Winchester St. #300	
<b>City, state</b>	Murray, UT	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jennifer Yim	801-261-6464	jmyim@agutah.gov
Amanda Montague	801-440-0545	amontague@agutah.gov
Zarah Borja	385-910-3215	zborja@agutah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R671-309. Impartial Hearings
<b>3. Purpose of the new rule or reason for the change:</b>
This rule amendment is the result of an effort to regularly review and update administrative rules.
<b>4. Summary of the new rule or change:</b>
This proposed amendment clarifies ex parte communications and hearing official recusals as part of offenders' right to an impartial hearing.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There is no anticipated cost or savings to the state budget,as this rule amendment is clerical in nature and will have no impact on how the Board functions.
<b>B) Local governments:</b>
There is no expected fiscal impact on local governments as this rule change is clerical and clarifying in nature and will have no impact local governments.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
This rule does not affect small businesses and so has no expected fiscal impact as this rule change is clerical and clarifying in nature and will have no impact small businesses.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>
This rule change has no effect on non-small business and so has no expected financial impact as this rule change is clerical and clarifying in nature and will have no impact on non-small businesses.
<b>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):</b>

This rule amendment will have no fiscal impact on persons other than small businesses, non-small businesses, or state or local government entities as this rule change is clerical and clarifying in nature and will have no impact on other persons mentioned above.

**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 entails no compliance costs for affected persons as this rule change is clerical and clarifying in nature and will have no impact 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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Administrative Director at the Board of Pardons and Parole, Jennifer Yim, has reviewed and approved this regulatory impact analysis.

**Citation Information**

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

Subsection 63G-3-201(3)	Subsection 77-27-9(4)(a)	Section 77-27-5
Section 77-27-7	Sections 77-27-1 et seq.	

**Public Notice Information**

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

**A) Comments will be accepted until:** 10/01/2024

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

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	J. Scott Stephenson, Chair	<b>Date:</b>	08/02/2024
---	----------------------------	--------------	------------

**R671. Pardons (Board of), Administration.**

**R671-309. Impartial Hearings.**

**R671-309-1. Ex Parte Communications.**

(1) Offenders are entitled to an impartial hearing before the Board. The Board therefore discourages any ex parte contact with ~~[(a)]~~ individual Board ~~[M]~~members or hearing officers at any time ~~;~~ or ~~(b)~~ hearing Officers once the Hearing Officer has been assigned to conduct a hearing for a specific offender].

(2) All contacts by offenders, attorneys, victims of crime, their family members or any other person outside the staff of the Board regarding a specific case shall be referred, whenever possible, to a staff member ~~[designated by the Board]~~ who is not currently directly involved in hearing the case.

(a) If information provided by any person outside of a hearing is relevant to the offender's case, it shall be placed in the offender's file and disclosed to the offender ~~[could materially affect the Board's decision, the designated staff member shall prepare a memorandum for the file containing the substance of the contact].~~

(b) If the contact is by a victim wishing to make a statement for the Board's consideration, Rule R671-203 on Victim Input and Notification shall apply.

(c) Any inquiries or input from attorneys, public officials, or members of the public, regarding case facts or substantive matters, shall be submitted in writing. ~~[Unwritten inquiries shall be documented and responded to in writing.]~~

(3)(a) A Board ~~[M]~~member or ~~[H]~~hearing ~~[O]~~officer assigned to a case may not initiate, permit, or consider ex parte communications concerning the substance of a pending matter.

(b) A Board ~~[M]~~member may not permit, consider, or be a party to any ex parte communication regarding a specific offender under Board jurisdiction if the object, intent, or substance of the communication is, or reasonably could be perceived to be, an attempt to impart information or opinion not contained in the offender's file, or to otherwise influence, change, or modify a Board decision or a Board ~~[M]~~member's deliberations, decision, or vote.

(c) In situations where such ex parte communication does occur, the Board member or ~~[H]~~hearing ~~[O]~~officer shall immediately take steps to terminate the communication, and shall thereafter reduce the substance of the communication to a written memorandum to be maintained separately from the offender's file ~~[for the Board file]~~, including copies of any writings that formed any part of the ex parte communication. ~~[Such memorandum shall thereafter be disclosed to the offender.]~~

(d) Board staff will document the ex parte event and individuals involved in the ex parte communications and place the documentation in the file. This documentation shall be disclosed to the offender.

(4) This rule may not preclude contact regarding procedural matters so long as such contact is not for the purpose of influencing the decision of the Board or any Board ~~[M]~~member on any particular case or hearing.

(5) Attorneys may submit information for the Board to consider. ~~[The information shall be submitted in writing and directed to the Administrative Coordinator or designee.]~~

(6) Violations of this rule may subject violators to sanctions pursuant to Section R671-103-2 and may result in a referral to the Office of Professional Conduct.

**R671-309-2. Recusal.**

(1) A "hearing official" is a Board member, a Board member pro tempore, or a hearing officer.

~~[(1)]~~(2) A hearing official ~~[or Board member]~~ may be recused in any proceeding in which the hearing official's ~~[or Board member's]~~ impartiality might reasonably be questioned, including but not limited to, the following circumstances:

(a) has a personal bias or prejudice concerning a party or a party's lawyer; ~~;~~

(b) is or could have been a witness or victim in any matter relating to the offender ~~[-];~~

~~[(b)]~~(c) has a familial, financial, or other relationship with anyone involved in the case that might reasonably be seen as a bias.

(d) where the hearing official has information about the case that does not appear in the file; and

~~[(e)]~~(e) served as a lawyer, judge, agent, or caseworker in any previous matter with the offender.

~~[(2)]~~(3) In cases where a clear basis for recusal exists the hearing official will document the recusal in the file and re-~~[ ]~~assign the case before the hearing is conducted.

~~[(3)]~~(4) If the conflict ~~[isn't]~~ is not recognized before the hearing or the basis for recusal is minimal, the hearing official shall disclose the basis of the potential recusal to the offender. If the offender waives the recusal and agrees that the hearing official need not be disqualified, the hearing official may conduct the proceeding. The offender's waiver shall be entered on the record and memorialized in the case file.

~~[(4)]~~(5) If the offender believes the hearing official or any Board member should be recused, the offender shall raise the issue any time before or during the hearing.

(a) The offender may waive the recusal and continue with the hearing as prescribed in Subsection (2).

(b) If the offender requests the recusal of the hearing official or Board member who is conducting the hearing, the hearing official or Board member will rule on the issue. If the hearing official or Board member denies the recusal and proceeds with the hearing, the offender may appeal to the Board Chair or designee. The offender must clearly describe, in writing, the basis for recusing the hearing official and the requested remedy. If the offender does not appeal the issue within ~~[+0]~~ ten calendar days after the hearing official denies the recusal, the appeal is waived.

~~[(5)]~~(6) The offender may request the recusal of a Board member from the voting process based on any factors in Subsection (1).

(a) If the offender requests the recusal of a Board ~~[M]~~member who is not conducting the hearing, the hearing official will document the request. The Board will make a decision about the recusal before considering the case.

(b) If the offender does not raise the issue of recusal within ~~[+0]~~ ten calendar days after the Board renders a decision the claim is waived.



(7) If a staff member of the Board meets the requirements of Subsection (2), that staff member shall declare the conflict, and the staff member's supervisor shall reassign the task to another staff member.

KEY: parole, inmates

Date of Last Change: ~~2024~~November 24, 2014]

Notice of Continuation: September 30, 2019

Authorizing, and Implemented or Interpreted Law: 63G-3-201(3); 77-27-1 et seq.; 77-27-5; 77-27-7; 77-27-9(4)(a)

### NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:

R671-403

Filing ID: 56701

#### Agency Information

1. Title catchline:	Pardons (Board of), Administration	
Street address:	448 E Winchester St. #300	
City, state	Murray, UT	
Contact persons:		
Name:	Phone:	Email:
Jennifer Yim	801-261-6464	jmyim@agutah.gov
Amanda Montague	801-440-0545	amontague@agutah.gov
Zarah Borja	385-910-3215	zborja@agutah.gov
Please address questions regarding information on this notice to the persons listed above.		

#### General Information

2. Rule or section catchline:
R671-403. Restitution
3. Purpose of the new rule or reason for the change:
This rule amendment is a result of a regular effort to update administrative rules.
4. Summary of the new rule or change:
This rule amendment clarifies the restitution process administered by the Board, including how requests for restitution are made and the burden of proof required.

#### Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated cost or savings to the state budget as this rule change is clerical in nature and will have no impact on how the Board functions.
B) Local governments:
There is no expected fiscal impact on local governments as this rule change is clerical and clarifying in nature and will have no impact local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule does not affect small businesses and so has no expected fiscal impact as this rule change is clerical and clarifying in nature and will have no impact small businesses.

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

This rule change has no effect on non-small business and so has no expected financial impact as this rule change is clerical and clarifying in nature and will have no impact on non-small businesses.

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

This rule amendment will have no fiscal impact on persons other than small businesses, non-small businesses, or state or local government entities as this rule change is clerical and clarifying in nature and will have no impact on other persons mentioned above.

**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 entails no compliance costs for affected persons, as this rule change is clerical and clarifying in nature and will have no impact on 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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Administrative Director at the Board of Pardons and Parole, Jennifer Yim, 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:**

Article VII, Section 12	Section 64-13-30	Section 64-13-33
Subsection 77-18-1(6)(b)	Section 77-22-5	Section 77-27-6
Subsection 77-27-9(4)(a)	Section 77-27-10	Section 77-30-24
Subsection 77-38a-203(2)(d)	Section 77-38a-30	

**Public Notice Information**

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

<b>A) Comments will be accepted until:</b>	10/01/2024
--	------------

<b>9. This rule change MAY become effective on:</b>	10/10/2024
---	------------

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	J. Scott Stephenson, Chair	<b>Date:</b>	08/02/2024
---	----------------------------	--------------	------------

**R671. Pardons (Board of), Administration.**

**R671-403. Restitution.**

**R671-403-1. General Provisions.**

(1) This rule applies to offenders sentenced before July 1, 2021, only. For offenders sentenced on or after July 1, 2021, the Board will follow the procedures of Rule R671-404.

(2) If the Board determines that a court has previously ordered or determined restitution applicable to any conviction, or that restitution is owed to any victim as a result of the conduct for which an offender was convicted, or any related conduct as authorized by state law to be considered, the Board may order restitution:

- (a) as a condition of parole;
- (b) as a contingency to be satisfied before release from prison incarceration earlier than sentence expiration; or
- (c) to be converted to a civil judgment, pursuant to applicable state law.

(3) The Board may, pursuant to state law, determine and order an offender to pay restitution at any time while the offender is under the Board's jurisdiction, when:

- (a) restitution has been ordered by the sentencing court;
- (b) pecuniary damages to a victim occurred as a result of the offender's criminal conduct but were not determined or ordered by the sentencing court;
- (c) requested by the Department of Corrections (Department) or other criminal justice agency;
- (d) pecuniary damages to any person or entity are caused by an offender's disciplinary violation, conduct, or behavior arising during incarceration;

(e) new information regarding restitution is submitted to the Board which was not available or considered at the time of sentencing or an earlier restitution determination; or

(f) the Board determines a restitution order is otherwise appropriate.

(4) Restitution determinations shall be:

- (a) based upon a preponderance of the evidence; and
- (b) made by a majority vote of the Board.

(5) When determining restitution, Subsection 77-38a-302(1)(2020) and Subsections 77-38a-302(5)(a) through (b)(2020) shall apply.

(6) The Board may determine and order restitution based upon:

- (a) earlier orders made by a sentencing court;
- (b) earlier orders involving the same crimes, events, or incidents made by a court in the case of a co-defendant;
- (c) amounts and determinations included in presentence reports; or
- (d) information received regarding restitution claimed or owed that the Board determines is relevant and reliable.

**R671-403-2. Restitution Ordered by the Court.**

(1) The Board shall affirm restitution ordered by a court in accordance with Section 77-38a-302(2020).

(2) An offender shall resolve objections regarding restitution entered by a court with the applicable court.

(3) The Board is not an appellate authority or forum in which to litigate restitution amounts previously ordered by a court.

(4) An offender may submit evidence of payments, credits, or offsets for consideration by the Board when determining restitution.

(5) The offender bears the burden to prove the validity and amounts of any payments, credits, or offsets submitted for consideration.

(6) If restitution was not determined or ordered by the sentencing court, the Board may, within one year of the imposition of sentence, refer the case back to the court for determination of restitution.

**R671-403-3. Restitution Included in Presentence Report.**

(1) If any party fails to challenge the accuracy of the restitution determinations, amounts, or information contained in a presentence report at the time of sentencing, that matter shall be considered waived, pursuant to Subsection 77-38a-203(2)(d)(2020), and the Board may order restitution based upon the information in the presentence investigation report.

(2) An offender may submit evidence of payments, credits, or offsets for consideration by the Board when determining restitution.

(3) The offender bears the burden to prove the validity and amounts of any payments, credits, or offsets submitted for consideration.

**R671-403-4. Initial Restitution Determination.**

(1) If restitution is not determined and ordered by the Board pursuant to Section R671-403-2 or Section R671-403-3, the Board may make an initial determination of restitution based upon the offender's convictions and the totality of the information available, including:

## NOTICES OF PROPOSED RULES

(a) restitution determinations made by a court applicable to a co-defendant for the same criminal conduct or the same victim;  
(b) statements made by a victim, offender, or co-defendant relating to restitution, including statements made as part of a presentence report investigation;

- (c) reports or calculations provided by the Department indicating the amount which should be ordered as restitution;  
(d) statements made in any civil or criminal proceeding;  
(e) statements made in documents provided to the Board; or  
(f) statements made during Board hearings.

(2) When the Board determines an initial restitution amount, the Board or the Department shall:

(a) inform the offender of the initial restitution determination; and

(b) inform the offender that any objection to the initial restitution determination must be filed with the Board in accordance with this rule.

(3) If the offender agrees with, or does not object to, the initial restitution determination, that restitution amount shall be ordered by the Board.

(4) If the offender objects to the initial restitution determination, the offender shall inform the Board of the objection and request a restitution hearing.

(5) The offender's objection and request for a hearing:

(a) shall be submitted to the Board in writing within 30 days of the initial restitution determination;

(b) may be accompanied by a clear, brief statement explaining the offender's objections; and

(c) may refer to or be accompanied by an explanation of any evidence, documents, or the names and addresses of witnesses upon which the offender will rely to support the objection.

(6) Following receipt of an offender's objection which complies with Section R671-403-4, the Board may change the initial restitution amount based upon the materials submitted by the offender, or may schedule a restitution hearing.

(7) Failure of an offender to file a timely objection shall waive and forfeit an offender's ability to contest a restitution order by the Board based upon the initial restitution determination.

### **R671-403-5. Restitution Hearings - Informal Resolution of Objection.**

(1) Following the receipt of a timely objection to an initial restitution determination, the Board may designate a hearing officer or other Board employee to informally, and without hearing, try to resolve the offender's concerns or objections.

(2) This informal resolution may involve correspondence or an interview or other meeting with the offender.

(3) If an offender's objections to an initial restitution determination are not resolved, the Board shall schedule a restitution hearing.

### **R671-403-6. Restitution Hearings - Procedure.**

(1) Restitution hearings may be conducted by a Board member, hearing officer, or other designee of the Board Chair.

(2) Board staff, the Department, the original prosecuting agency, the offender, and any victim may participate in the restitution hearing, as necessary.

(3) The Board may issue subpoenas to procure the attendance of necessary witnesses.

(4) The rules of evidence do not apply at restitution hearings.

(5) Any payments, credits, or offsets, toward a restitution order may be proven by a preponderance of the evidence.

(6) If any amount of restitution is claimed by, or on behalf of, any victim, in addition to any amount previously determined by a court or by the Board, including the initial restitution determination, the proponent of such additional restitution carries the burden of proving such additional restitution by a preponderance of the evidence. The request for restitution can be made by the victim or victim representative by submitting a written request to the Board.

(7) Any party may submit documentation, records, or other written evidence for the Board to consider regarding the issue of restitution. The burden of proof is on the party requesting restitution to show by a preponderance of the evidence that the losses suffered were proximately caused by the offender's convicted conduct or that the offender agreed to pay.

(8) The Board shall enter an order determining the amount of restitution owed by the offender, or continue the matter for additional information, further hearing or further consideration as needed.

### **R671-403-7. Modifications to Restitution Orders.**

Modifications to restitution orders may occur:

(1) Upon a waiver and stipulation of the offender;

(2) Upon receipt of new or subsequent court orders;

(3) When restitution claims, damages, or costs continue to accrue after sentencing;

(4) Upon consideration of offender restitution payments, credits for payments made by others on the offender's behalf, offsets due to insurance or other third-party payments, or modifications based upon property being returned to a victim after the conclusion of court proceedings;

(5) When an open or ongoing claim exists with the Utah Office for Victims of Crime;

(6) Following an informal resolution regarding new restitution claims or offsets; or

(7) Following subsequent restitution hearings.

**R671-403-8. Compliance With Restitution Orders.**

(1) While the offender is under Department or Board jurisdiction, the Department shall enforce the Board's restitution orders and parole conditions.

(2) As part of parole, the Board expects that parolees will make regular monthly payments based on the offender's ability to pay and in amounts sufficient to satisfy the restitution obligation during the parole period.

(3) The Board and the Department have jurisdiction over, and may continue to enforce restitution orders, in cases which may have terminated on or after July 1, 2005, if the Board has had continuing jurisdiction over the offender in any other case.

(4) The Department shall track cases for restitution payment and notify the Board in a timely manner of any action needed regarding restitution orders.

(5) If any restitution ordered by the Board or by a court has not been paid in full before a parole termination request, the Department shall inform the Board, as part of the termination request:

- (a) how much of the offender's restitution obligation has been paid;
- (b) how much of the restitution obligation, including post-judgment interest, remains unpaid; and
- (c) why the restitution obligation was not paid in full during the term of parole.

(6) If any restitution ordered by the Board or by a court has not been paid in full before a parole termination request, the Board may deny the parole termination request.

**R671-403-9. Unpaid Restitution - Civil Judgments.**

(1) Upon termination or expiration of the sentence of an offender under the Board's jurisdiction, if an offender owes outstanding restitution, or if the Board makes an order of restitution within 60 days following the termination or expiration of the defendant's parole or sentence, the unpaid restitution shall be referred by the Board to the district court for the entry of a civil judgment and for civil collection remedies.

(2) The Board shall forward a restitution order to the sentencing court to be entered on the judgment docket.

(3) If the Board has continuing jurisdiction over the offender for a separate criminal offense, the Board may defer seeking a civil judgment for restitution until termination or expiration of any of the offender's sentences. The restitution obligation for the terminating or expiring case may be made a condition of parole for any separate or subsequent offense under continuing jurisdiction.

(4) The Board may order conversion of restitution to a civil judgment at any time, provided that the restitution amount was determined and ordered by:

- (a) a Court;
- (b) the Board during its jurisdiction over the offender; or
- (c) the Board within 60 days following parole termination, sentence termination, sentence expiration, or other termination of Board jurisdiction.

**R671-403-10. Restitution Allocations.**

When the Board orders two or more offenders under its jurisdiction to pay restitution for the same event or conduct, the Board may apportion restitution among the offenders or may hold them jointly and severally liable.

**KEY: restitution, hearings, parole**

**Date of Last Change:** ~~2024 June 9, 2022~~

**Notice of Continuation:** November 10, 2021

**Authorizing, and Implemented or Interpreted Law:** Art. VII, Sec. 12; 64-13-30; 64-13-33; 77-18-1(6)(b); 77-22-5; 77-27-6; 77-27-9(4)(a); 77-27-10; 77-30-24; 77-38a-203(2)(d); 77-38a-302

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R671-513	Filing ID: 56714

Agency Information		
1. Title catchline:	Pardons (Board of), Administration	
Street address:	448 E Winchester St. #300	
City, state	Murray, UT	
Contact persons:		
Name:	Phone:	Email:
Jennifer Yim	801-261-6464	jmyim@agutah.gov
Amanda Montague	801440-0545	amontague@agutah.gov
Zarah Borja	385-910-3215	zborja@agutah.gov

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

**General Information**

<b>2. Rule or section catchline:</b>
R671-513. Expedited Determination of Parolee Challenge to Probable Cause
<b>3. Purpose of the new rule or reason for the change:</b>
This amendment is part of the Board's routine review of its rules with the goal of updating or clarifying any language necessary.
<b>4. Summary of the new rule or change:</b>
This amendment clarifies the process of challenging probable cause relied on when the Board issues warrants.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There is no anticipated cost or savings to the state budget as this rule is clarifying in nature and will have no impact on how the Board functions.
<b>B) Local governments:</b>
There is no expected fiscal impact on local governments as this rule change is clarifying in nature and will have no impact local governments.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
This rule does not affect small businesses and so has no expected fiscal impact as this rule change is clarifying in nature and will have no impact small businesses.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>
This rule change has no effect on non-small business and so has no expected financial impact,as this rule change is clarifying in nature and will have no impact on non-small businesses.
<b>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 <i>agency</i>):</b>
This rule amendment will have no fiscal impact on persons other than small businesses, non-small businesses, or state or local government entities as this rule change is clerical and clarifying in nature and will have no impact on other persons mentioned above.
<b>F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):</b>
This rule change entails no compliance costs for affected persons, as this rule change is clerical and clarifying in nature and will have no impact affected persons.
<b>G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)</b>

**Regulatory Impact Table**

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

**H) Department head comments on fiscal impact and approval of regulatory impact analysis:**  
The Administrative Director at the Board of Pardons and Parole, Jennifer Yim, has reviewed and approved this regulatory impact analysis.

**Citation Information**

<b>6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Subsection 77-27-9(4)	Section 77-27-28	Section 77-27-30
Section 77-27-11	Section 77-27-29	Section 77-27-27

**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:** 10/01/2024

**9. This rule change MAY become effective on:** 10/08/2024  
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	J. Scott Stephenson, Chair	<b>Date:</b>	08/13/2024
---	----------------------------	--------------	------------

**R671. Pardons (Board of), Administration.**

**R671-513. Expedited Determination of Parolee Challenge to Probable Cause.**

**R671-513-1. Expedited Determination of Parolee Challenge to Probable Cause.**

1. If a parolee who is returned to custody for a parole violation wishes to challenge the probable cause statements or evidence upon which the warrant request was based, the parolee shall submit the challenge in writing, accompanied by a summary of the evidence supporting the challenge, within seven days of service of the arrest warrant on the parolee~~[arrest or detention on the warrant]~~.

2. At least one member of the Board shall review all the evidence in support of the parole violation allegations, as well as the challenge and evidence submitted in support of the challenge, and decide whether probable cause for the violation allegations continues to exist.

3. The parolee also shall inform the Board and the parole agent in writing if any evidence relating to possible defenses to the alleged parole violation exists and must be preserved. The request to preserve evidence shall be in writing and sufficiently detailed so that the parole agent can easily identify and locate the evidence to be preserved.

**R671-513-2. Review of Evidence.**

Review of the parolee's evidence shall occur no later than five days after the parolee has submitted a challenge to probable cause. If the reviewing Board member decides that the challenge to probable cause is ~~[original probable cause determination was]~~ not sufficient~~[correct]~~, the Board member shall deny the parolee's challenge, and parole violation proceedings will continue in accordance with applicable rules. If the reviewing Board member decides that the challenge to probable cause is sufficient to warrant further review~~[the probable cause determination was incorrect, or that probable cause to believe a violation occurred no longer exists,]~~ the case shall be routed to the Board for deliberation. The Board may make a decision on the written submissions or take further action to resolve the probable cause challenge. If a majority of the Board believes the parolee's challenge~~[evidence]~~ negates the finding of probable cause, the warrant shall be withdrawn and the

NOTICES OF PROPOSED RULES

parolee reinstated on parole. Time spent incarcerated pursuant to a warrant which is withdrawn constitutes service of the parolee's sentence and parole term.

**KEY:** parole, warrant, hearing

**Date of Last Change:** 2024~~[May 22, 2013]~~

**Notice of Continuation:** October 4, 2022

**Authorizing, and Implemented or Interpreted Law:** 77-27-9(4); 77-27-11; 77-27-27; 77-27-28; 77-27-29; 77-27-30

NOTICE OF SUBSTANTIVE CHANGE		
<b>TYPE OF FILING:</b> Amendment		
<b>Rule or Section Number:</b>	<b>R986-700</b>	<b>Filing ID: 56734</b>

**Agency Information**

<b>1. Title catchline:</b>	Workforce Services, Employment Development	
<b>Building:</b>	Olene Walker Building	
<b>Street address:</b>	140 E 300 S	
<b>City, state</b>	Salt Lake City, UT	
<b>Mailing address:</b>	PO Box 45244	
<b>City, state and zip:</b>	Salt Lake City, UT 84145-0244	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Robert Andreasen	801-517-4722	randreasen@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R986-700. Child Care Assistance
<b>3. Purpose of the new rule or reason for the change:</b>
The purpose of this rule change is to clarify the processes for childcare assistance, amend this rule to conform to federal requirements, and to provide consistency in terms and definitions.
<b>4. Summary of the new rule or change:</b>
This rule change provides for the extension of the review period for certain households, effectively extending the child care benefit periods for those customers.
This rule change also prohibits a household seeking to add an additional child to services within a current review period from adding the child until the eligibility requirements are satisfied.
This rule change authorizes customers receiving certain child care benefits to provide in-home child care in some instances. The change clarifies that a child care provider with an adjudicated overpayment owed to the Office of Child Care is ineligible to apply for grants.
This rule change also deletes expired provisions, clarifies terms, and makes nonsubstantive edits to the rule.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This amendment is not expected to have any fiscal impact on state revenues or expenditures.
No additional state employees or resources are needed to oversee this rule amendment.



The amendment will not increase the Department's workload and can be carried out with its existing budget.

The amendment does not increase or decrease the amount of child care subsidies available.

**B) Local governments:**

This amendment is not expected to have any fiscal impact on local governments' revenues or expenditures because the program does not rely on local governments for funding, administration, or enforcement.

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

This amendment is not expected to have a fiscal impact on small businesses other than those which are child care providers.

This amendment is expected to have an indirect fiscal benefit to such small businesses because the new provisions may extend benefit periods for customers receiving employment support child care and result in fewer interruptions of service.

This amendment may also have an indirect fiscal impact on small business providers because certain customers receiving employment support child care from a licensed provider may be eligible to move a special needs child to in-home care—however, the number of affected customers is anticipated to be only a small fraction of the customers receiving employment support child care.

This amendment may also impact the ability of an employment support child care small business to apply for grants if the business has an adjudicated overpayment owed to the Office of Child Care.

Although this amendment is expected to have an indirect fiscal impact on small business child care providers, the Department is unable to estimate the amount of such impact because it does not track and does not have data on the number of customers that may qualify for an extension, the number of customers that may add children to an existing case, or the number of special needs children that may move to in-home care.

Moreover, eligibility for benefits is decided on a case-by-case basis and depends on multiple factors that cannot be determined until an application is received. However, the funding for child care subsidy payments is provided through federal funding. Assistance for child care means that parents are more available to work, providing reliable employees for businesses and benefits the businesses for which the parents work.

The Department also cannot predict what grant opportunities will be available to providers or estimate how many applications for such grant opportunities will be received. Funding for child care provider grant opportunities may be through federal or state funding and each grant opportunity generally has specific eligibility requirements that cannot be anticipated.

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

This amendment is not expected to have a fiscal impact on non-small businesses other than those which are child care providers.

This amendment is expected to have an indirect fiscal benefit to such non-small businesses because the new provisions may extend benefit periods for customers receiving employment support child care and result in fewer interruptions of service.

This amendment may also have an indirect fiscal impact on non-small business providers because certain customers receiving employment support child care from a licensed provider may be eligible to move a special needs child to in-home care—however, the number of affected customers is anticipated to be less than one percent of the customers receiving employment support child care.

This amendment may also impact the ability of an employment support child care non-small business to apply for grants if the business has an adjudicated overpayment owed to the Office of Child Care. Although this amendment is expected to have an indirect fiscal impact on non-small business child care providers, the Department is unable to estimate the amount of such impact because it does not track and does not have data on the number of customers that may qualify for an extension, the number of customers that may add children to an existing case, or the number of special needs children that may move to in-home care.

Moreover, eligibility for benefits is decided on a case-by-case basis and depends on multiple factors that cannot be determined until an application is received. However, the funding for child care subsidy payments is provided through federal funding. Assistance for child care means that parents are more available to work, providing reliable employees for businesses and benefits the businesses for which the parents work.

The Department also cannot predict what grant opportunities will be available to providers or estimate how many applications for such grant opportunities will be received. Funding for child care provider grant opportunities may be through federal or state funding and each grant opportunity generally has specific eligibility requirements that cannot be anticipated.

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

This amendment may provide a fiscal benefit to other persons who are employment support child care customers by extending the review period for a household by up to an additional 12 months, effectively extending the benefit period.

The amendment may also preclude a household seeking to add an additional child to services within a current review period from adding the child until the eligibility requirements are satisfied.

This amendment may also benefit employment support child care customers who have special needs children in licensed programs because they may provide in-home care under the amended rule. Although this amendment is expected to have an indirect fiscal impact on other persons, the Department is unable to estimate the amount of such impact because it does not track and does not have data on the number of customers that may qualify for an extension, the number of customers that may add children to an existing case, or the number of special needs children that may move to in-home care.

Moreover, eligibility for benefits is decided on a case-by-case basis and depends on multiple factors that cannot be determined until an application is received. However, the funding for child care subsidy payments is provided through federal funding. Assistance for child care means that parents are more available to work, providing reliable employees for businesses and benefits the businesses for which the parents work.

The Department also cannot predict what grant opportunities will be available to providers or estimate how many applications for such grant opportunities will be received. Funding for child care provider grant opportunities may be through federal or state funding and each grant opportunity generally has specific eligibility requirements that cannot be anticipated.

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

The proposed rule amendment is not expected to cause any compliance costs for affected persons because the changes do not create any new administrative fees.

**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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Executive Director of the Department of 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-3-203	Section 35A-3-209	Section 35A-3-310
Section 35A-3-312	45 CFR 98.21	

### 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:** 10/01/2024

**9. This rule change MAY become effective on:** 10/08/2024

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

### Agency Authorization Information

<b>Agency head or designee and title:</b>	Casey Cameron, Executive Director	<b>Date:</b>	08/14/2024
---	-----------------------------------	--------------	------------

#### R986. Workforce Services, Employment Development.

#### R986-700. Child Care Assistance.

#### R986-700-701.1. Definitions and Acronyms.

(1) The terms used in this rule are defined in Sections 35A-3-102 and 35A-3-201, and in Sections R986-100-103 and R986-100-104 except as noted in Subsection (2) of this section.

(2) In addition:

(a) "ADH" means administrative disqualification hearing.

(b) "Applicant" means a person requesting CC.

(c) "Approved Provider" means a provider that meets the requirements in Section R986-700-726.

(d) "CCDF" means Child Care and Development Fund.

(e) "CCL" means DHHS, Division of Licensing and Background Checks, Child Care Licensing.

(f) "CCQS" means Child Care Quality System, a comprehensive statewide system administered by OCC that provides quality ratings to eligible programs and supports programs in attaining higher levels of quality.

(g) "Certification period" as it relates to a recipient of CC is the period for which CC is presumptively approved.

(h) "Client" means an applicant for, or recipient of, CC.

(i) "Child" includes the singular and the plural, child or children.

(j) "Child Care Provider" or "Provider" means a person, individual or corporation, institution, or organization that provides child care services.

(k) "Civil money penalty" is a fine assessed by CCL for repeat citations, or when the first instance of noncompliance results in, or is likely to result in, extreme risk or harm.

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

(m) "Employment" means a job or providing a service that pays wages, a salary, in-kind benefits, or self-employment income, provided federal or state law does not prohibit the occupation.

(n) "ES CC" means Employment Support Child Care assistance.

(o) "ESG" means Enhanced Subsidy Grant. An ESG is a monthly payment issued to an eligible program serving children covered by CC subsidies and achieving a rating of CCQS High Quality or High Quality Plus.

(p) "FEP CC" means Family Employment Program Child Care assistance.

(q) "FFN provider" means Family, Friend, and Neighbor provider.

(r) "GED" means General Education Development diploma.

(s) "Licensed-center provider" means a non-hourly, licensed child care center that is regulated through CCL.

(t) "Locked-in benefit" means the amount of the first full month of benefits paid on behalf of a client.

(~~f~~)u) "OCC" means Department of Workforce Services, Office of Child Care.

(~~u~~)v) "Parent" includes a natural, adoptive, or step parent.

(~~v~~)w) "Recipient" means an individual receiving CC.

(~~w~~)x) "Review or recertification" means the process to determine continued eligibility.

(~~y~~) "Transitional CC" means CC available to a customer whose FEP case closed because of increased income and who meets ES CC eligibility requirements.

**R986-700-702. General Provisions.**

(1)(a) ~~[Child Care assistance]~~CC is provided to support employment for a qualified household with at least one minor dependent child who is a United States citizen or who meets qualified alien status.

(b) ~~[Child Care assistance]~~CC for approved education and training activities, job search, or for an approved temporary change as defined in Section R986-700-703 may be authorized in accordance with this rule.

(2) ~~[Child Care assistance]~~CC is available, as funding permits, to a client who is employed or is participating in activities that lead to employment, and is:

(a) a parent, including a foster care parent who receives foster care reimbursement from the Utah Department of Health and Human Services, Division of Child and Family Services, or its successor;

(b) a specified relative;

(c) a client who has been awarded custody or appointed guardian of the child by court order and both parents are absent from the home; or

(d) as determined by the Department on a case[-]by[-]case basis, a client acting as a child's guardian although no court order exists and both parents are absent from the home.

(3)(a) Except for FEP CC and transitional CC, household eligibility is determined for a minimum period of 12 months.

(b) The eligibility period and eligibility review may be extended to no more than 12 months, but may not be shortened to less than 12 months.

(c) Each requested verification must be provided at the time of the application and review.

(d) The application or review is not complete until the client has completed, signed, and returned each necessary application or review form to the local office or through the Department's online portal.

(e) If the Department determines the household's gross monthly income exceeds the percentage of the state median income as determined by the Department under Subsection R986-700-710(4), the Department may terminate CC even if the certification period has not expired.

~~(3)4(a)~~ ~~[Child Care assistance]~~CC is provided only for a child who lives in the home of the client and only during hours when no parent or other guardian is available to provide care for the child.

(b) The child must have a need for at least eight hours of child care per month to be eligible for CC.

(4)5 The need for each child shall be reported at the time of the application or review. After the initial approval, the need for additional children shall require a new application for assistance. If a client is eligible to receive CC, each of the following children, living in the household unit, are eligible at the time of application or review:

(a) a child under the age of 13 years; and

(b) a child up to the age of 18 years if the child is under court supervision or meets the requirements of Section R986-700-717.

(6) When a request is made for an additional child to be added to an open CC case, a new application is required. The household must meet all eligibility requirements that the household was subject to at the time of the most recent approval. The eligible child may be added for a minimum of 365 days or 12 full months of benefits and the review for the household may be extended, as follows.

(a) If parent participation does not change, the additional child shall be added to the existing locked-in benefit at its current amount and the review will be extended for a minimum of 12 full months from the first full month of the new child's participation.

(b) If parent participation decreases, but continues to meet the minimum work requirement, the new child will be added to the existing locked-in benefit at its current amount and the review will be extended for a minimum of 12 full months from the first full month of the new child's participation.

(c) If adding a child increases the benefit, specifically a decrease in co-pay or increased hours, the household benefit will increase for the next 12 months from the first full month of the new child's participation.

(7) When requesting to add a child to an open case, CC will be denied for the additional child if the household does not meet all eligibility requirements to which the household was subject at the time of the most recent approval. The remaining children who were determined to be eligible will remain eligible through the end of the current review period.

~~(5)8(a)~~ The child care needs of a client who qualifies for CC will be paid if and as funding is available.

(b) When the child care needs of an eligible applicant exceeds available funding, the applicant will be placed on a waiting list.

(i) Eligible applicants on the waiting list will be served as funding becomes available.

(ii) Special needs children, homeless children, and FEP or FEPTP eligible children will be prioritized at the top of the waiting list and will be served first.

(iii) "Special needs child" is defined in Section R986-700-717.

~~(6)9(a)~~ ~~[Child Care assistance]~~CC is issued monthly based on a client's eligibility for services in that month.

(b) The amount of CC might not cover the entire cost of care.

~~(7)10(a)~~ A client is only eligible for CC if the client has no other options available for child care.

(b) Clients are encouraged to obtain child care at no cost from a parent, sibling, relative, or other suitable provider.

(c) If suitable child care is available to a client at no cost from another source, CC cannot be provided.

~~(8)11(a)~~ ~~[Child Care assistance]~~CC may only be provided by an eligible provider approved by the Department and will not be provided for illegal or unsafe child care.

(b) Illegal child care is care provided by a person or facility required to be licensed or certified but where the provider has not fulfilled the requirements necessary to obtain the license or certification.

~~(9)12(a)~~ ~~[Child Care assistance]~~CC will not be paid for the care of a client's own child during the time the client is working as a caregiver in the same residential setting where care is being provided.

(b) ~~[Child Care assistance]~~CC will not be approved where the client is working for an approved child care center and regularly watches the client's own children at the center or has an ownership interest in the child care center.

(c) ~~[Child Care assistance]~~CC will not be paid for the care of a client's own child if the client is also the licensee or is a stockholder, officer, director, partner, manager, or member of a corporation, partnership, limited liability partnership or company, or similar legal entity providing the child care.

(d)(i) A person who is self-employed as a child care provider cannot receive CC for child care provided for that person's children during the time the person is working as a child care provider, regardless of where the person's child receives child care.

(ii) A person who is self-employed as a child care provider may receive CC when needed for approved activities while the person is not engaged in child care.

~~[(10)13] Neither the Department nor the state is liable for an injury that may occur when a child is placed in child care even if the parent receives CC from the Department.~~

~~(11)(a) Except for FEP CC and transitional CC, household eligibility is determined for a minimum period of 12 months.~~

~~(b) The eligibility period and eligibility review may be extended to more than 12 months, but may not be shortened to less than 12 months.~~

~~(c) Each requested verification must be provided at the time of the review.~~

~~(d) The review is not complete until the client has completed, signed, and returned each necessary review form to the local office.~~

~~(e) If the Department determines the household's gross monthly income exceeds the percentage of the state median income as determined by the Department in Subsection R986-700-710(3), the Department may terminate CC even if the certification period has not expired.]~~

### **R986-700-703. Client Rights and Responsibilities.**

In addition to the client rights and responsibilities found in Rule R986-100, the rights and responsibilities listed in this section apply.

(1) A client ~~[has the right to]~~ may select the type of child care that best meets the family's needs~~[-]~~, including reporting the client's choice of provider to the Department and start date of care, if known. If no start date is reported or a discrepancy in start dates exists, the Department may use the start date verified with the client's chosen provider.

(2) If a client requests help in selecting a provider, the Department will refer the client to the local Care About Child~~[-C]~~care agency.

(3)(a) A client must verify identity.

(b)(i) A client is not required to provide a Social Security Number.

(A) The Department will verify a Social Security Number supplied by a client.

(B) The Department will request further verification to confirm an individual's identity if a Social Security Number cannot be verified.

(ii) Benefits will not be denied or withheld if a client chooses not to provide a Social Security Number if the client is otherwise eligible.

(4) A client is responsible for monitoring the child care provider.

(5)(a) A client is responsible to pay all costs of care charged by the provider.

(b) If the CC payment provided by the Department is less than the amount charged by the provider, the client is responsible for paying the provider the difference.

(6) Within ten days of occurrence, a client shall report any of the changes listed in this subsection.

(a) If the household's gross monthly income exceeds the percentage of the state median income as determined by the Department in Subsection R986-700-710(~~[3]~~4).

(b) If the client no longer needs child care.

(c) A change of address.

(d) If a child receiving child care:

(i) moves out of the home; or

(ii) has stopped attending child care.

(e) A change in the child care provider, including when care is provided at no cost.

(7) Allowable temporary changes.

(a) The following are allowable temporary changes:

(i) time-limited absences from work due to medical or other emergency, including maternity leave, bed rest, or temporary medical issues of the client or an immediate family member living in the client's home if the client is responsible for the immediate family member's care;

(ii) temporary fluctuations in earnings or hours, including summer break for teachers or seasonal hours changes for IRS employees, that would otherwise have the effect of causing the client to fail to meet the minimum work requirements for eligibility;

(iii) scheduled holidays or breaks in a client's educational training schedule;

(iv) an eligible child turning 13 years old during an eligibility review period, unless the child no longer has a need for child care; and

(v) a client who has been approved for ongoing ES CC at application or recertification and has a permanent loss of employment may remain eligible through the rest of the certification period.

(b) A client who experiences an allowable temporary change after having been approved for ongoing ES CC may continue to receive CC at the same level for the rest of the certification period if the child attends child care at least eight hours each month.

(8)(a) Once an eligibility determination is made and a full month's payment and copayment is assessed, benefits will be paid at the same level during the rest of the certification period so long as the client remains eligible.

(b) The Department may act on reported changes that result in a participation increase or copayment decrease.

## NOTICES OF PROPOSED RULES

(c) Benefits may be reduced if a child care provider reports a lower monthly charge or the client changes to a different child care provider.

(9)(a) If an overpayment is established and it is determined that the client was at fault in the creation of the overpayment, the client must repay the overpayment to the Department.

(b) The Department may find that the client and provider are jointly liable for the overpayment.

(c) In the case of joint liability, both parties can be held liable for the entire overpayment.

(10) The Department may release the following information to the designated provider:

(a) limited information regarding the status of a CC payment including that no payment was issued or services were denied;

(b) the date the CC payment was issued;

(c) the CC payment amount for that provider;

(d) the copayment amount;

(e) information available in the Department Provider Portal;

(f) the month the client is scheduled for review;

(g) the date the client's application was received; and

(h) general information about what additional information or verification is needed to approve CC including the client's work schedule and income.

(11)(a) If a client changes providers, the change will be made based upon reporting requirements for the following month's subsidy payment.

(b) No additional payment will be made to another provider for any days remaining in the current benefit month, unless the maximum subsidy payment amount for the month will not be exceeded by paying the second provider or if one of the exceptions listed in this subsection applies.

(i) The Department was notified of the change in the month before the change.

(ii) The initial provider is no longer an approved provider or has been disqualified by the Department.

(iii) The initial provider is not holding the child's space for the rest of the month.

(iv) The client relocates to a different residence and it is no longer reasonably feasible to continue using the initial provider due to travel time or distance.

(v) There is a substantial change in the days or times of day when child care is needed, including a change in the timing of the shifts the client is working, that cannot be accommodated by the initial provider.

(vi)(A) The Department determines a change in child care providers is necessary due to a report of endangerment for the child.

(B) The Department may, in its discretion, approve payment to a second provider due to a report of endangerment even if the maximum subsidy payment amount would be exceeded.

(vii) The Department determines a change in child care providers is necessary due to circumstances related to a pandemic, natural disaster, or other state of emergency.

(12) A client may select an authorized representative.

(a) An authorized representative is an individual selected by a client to conduct business on the client's behalf.

(b) An authorized representative may provide verifications and complete forms for the client.

(c) A client's child care provider may act as an authorized representative for the client after the client has been informed of the provider's potential conflict of interest.

### **R986-700-708. Family Employment Program Child Care and Transitional Child Care.**

(1) ~~[Family Employment Program]~~FEP CC may be provided to clients receiving financial assistance from FEP or FEPTP. Family Employment Program CC will only be provided to cover the hours a client needs child care to support the activities required by the employment plan.

(2) Transitional child care is available during the six months immediately following a FEP or FEPTP termination if the termination was due to increased earned income and the household meets the work requirement and income rules for ES CC.

(3) Clients receiving transitional child care are not subject to the copayment requirement.

(a) The copayment will resume in the seventh month after the termination of FEP or FEPTP.

(b) The six month time limit is the same regardless of whether the client receives TCA or not.

(4) A client does not need to fill out a new application for child care during the six month transitional period even if there is a gap in services during those six months.

### **R986-700-709. Employment Support Child Care Assistance.**

(1) Parents who are not eligible for FEP CC may be eligible for Employment Support (ES) CC.

(2) ~~[Employment Support]~~ES CC is available in the following circumstances:

(a) In a single-parent household, the single parent must be the custodial parent of the eligible child and must be:

(i) employed an average of at least 15 hours per week;

(ii) employed to the single parent's full capacity if the single parent has a disability that has been verified and confirmed by the Department;

(iii) enrolled and participating in either an in-person, formal course of study or online courses with a set class schedule to obtain a high school diploma or GED;

(iv) employed an average of at least 15 hours per week and participating in education and training activities as defined in Section R986-700-711; or

- (v) enrolled in a WIOA or TANF non-FEP funded training or educational program approved by the Department.
- (b) Two-parent households.
  - (i) In a two-parent household, the parents must be:
    - (A) employed, with one parent employed an average of at least 30 hours per week and the second parent employed an average of at least 15 hours per week;
    - (B) employed to both parents' full capacities if one or both parents has a disability that has been verified and confirmed by the Department;
    - (C) employed, with one parent employed an average of at least 30 hours per week and the second parent employed an average of at least 15 hours per week and participating in education and training activities as defined in Section R986-700-711;
    - (D) enrolled and participating in an in-person, formal course of study or online courses with a set class schedule to obtain a high school diploma or GED; or
    - (E) enrolled in a WIOA or TANF non-FEP funded training or educational program approved by the Department.
  - (ii)(A) The Department shall authorize ES CC to two-parent households only when neither the parents' work schedules nor course schedules can be changed to provide care for the parents' child.
    - (B) The Department may authorize ES CC when both parents are enrolled and participating in a formal course of study to obtain a high school diploma or GED.
    - (C) The Department may authorize ES CC when one parent is working and the second parent is participating in the formal course of study to obtain a high school diploma or GED.
    - (D) The Department may authorize ES CC when both parents are enrolled and participating in approved WIOA or TANF non-FEP funded training or education.
    - (E) The Department may authorize ES CC when one parent is working and the second parent is participating in approved WIOA or TANF non-FEP funded training or education.
- (c) Self-employed parents.
  - (i) Self-employed parents may receive ES CC if they meet the minimum work requirements and earn wages or profit from self-employment at a rate equal to at least minimum wage, calculated by dividing the wage or profit earned through self-employment by the number of hours worked in the timeframe used to determine eligibility.
    - (ii) A self-employed parent shall submit business records for the most recent three-month period of self-employment to establish that the self-employed parent is earning at least minimum wage.
    - (iii) An exception to the requirement that a self-employed parent earn at least minimum wage may apply if the self-employed parent has a barrier to other types of employment.
- (3) Employment Support CC shall be provided to cover the hours the parent needs child care for employment or approved educational or training activities.
  - (4) Disability.
    - (a) A household may verify a disability under this section by establishing:
      - (i) the disabled parent has an inability to earn a minimum of \$500 per month;
      - (ii) the disabled parent has a temporary physical, emotional, or mental incapacity expected to last 30 days or longer that has been verified by the household by submitting the following, and the incapacity is confirmed by the Department:
        - (A) evidence that the disabled parent receives disability benefits from SSA if it proves the incapacity prevents the parent from providing care for the parent's child;
        - (B) a determination by VA that the parent is 100% disabled if it proves the incapacity prevents the parent from providing care for the parent's child; or
        - (C) a written statement from a licensed:
          - (I) medical doctor;
          - (II) doctor of osteopathy;
          - (III) Mental Health Therapist as defined in Section 58-60-102;
          - (IV) Advanced Practice Registered Nurse; or
          - (V) Physician's Assistant; and
      - (iii) in a two-parent household, the disabled parent is unable to provide care for the child while the other parent is employed.
    - (b) A parent who is employed and earning more than \$500 per month or participating in educational or training activities will not be considered disabled under this section unless the Department confirms the disability.
  - (5) As used in this section the term "employment" does not include:
    - (a) Ameri[e]Corps\* Vista, Job Corps and other similar training activities; or
    - (b) Work Study activities.

**R986-700-711. Employment Support Child Care Assistance to Support Education and Training Activities.**

- (1) ~~Employment Support Child Care assistance~~ ES CC may be provided when the client is engaged in education or training and employment, provided the client meets the work requirements under Section R986-700-709.
- (2) The work requirement may be waived as provided in Subsection R986-700-709(2)(a)(iii), R986-700-709(2)(a)(v), or R986-700-709(2)(b)(i)(C) for a client who is unemployed and is enrolled in a formal course of study to obtain a high school diploma or GED.
  - (a) The 24 calendar month time limit in Subsection R986-700-711(4) does not apply to high school or GED completion.
  - (b) The client must provide verification of satisfactory progress to receive continued ES CC beyond 12 months.

## NOTICES OF PROPOSED RULES

(3) The education or training is limited to courses approved by the Department that directly relate to improving the parent's employment skills.

(4) ~~[Employment Support]~~ES CC will only be paid to support education or training activities for a total of 24 calendar months.

(a) The months do not need to be consecutive.

(b) On a case[-]by[-]case basis, and for a reasonable length of time, months do not count toward the 24-month time limit when the client is meeting the work requirements of Section R986-700-709 and is enrolled in a formal course of study for any of the following:

(i) obtaining a high school diploma or GED;

(ii) adult basic education; or

(iii) learning English as a second language.

(c) Months during which the client received FEP CC while receiving education and training do not count toward the 24-month time limit.

(d)(i) ~~[Child Care assistance]~~CC is not ordinarily used to support short-term workshops unless they are required or encouraged by the employer.

(ii) If a short-term workshop is required or encouraged by the employer, and approved by the Department, months during which the client receives child care to attend such a workshop do not count toward the 24-month time limit.

(5) Education or training can only be approved if the client can realistically complete the course of study within 24 months and demonstrates progress in the program.

(6) Any CC payment to cover training participation hours made for a calendar month, or a partial calendar month, counts as one month toward the 24-month limit.

(7) Except as provided in Section R986-700-711, there are no exceptions to the 24-month time limit, and no extensions may be granted.

(8) Only the last two years of a four-year program may be supported.

(9) ~~[Child Care assistance]~~CC is not allowed to support education or training if the client already has a bachelor's degree.

(10) ~~[Child Care assistance]~~CC cannot be approved for graduate study or obtaining a teaching certificate if the client already has a bachelor's degree.

### **R986-700-712. Child Care Assistance for Certain Homeless Families.**

(1) ~~[Child Care assistance]~~CC can be provided for homeless families with one or two parents when the family meets the following criteria:

(a)(i) The family must present a referral for CC from an agency known by the local office to be an agency that works with homeless families, including shelters for abused women and children.

(ii) This referral will serve as proof of the family's homeless state.

(iii) Local offices will provide a list of recognized homeless agencies in the local office area.

(b) The family must meet ES CC relationship and income eligibility criteria, but the minimum work requirements are waived.

(2) ~~[Child Care assistance]~~CC for homeless families is provided for up to 12 months.

(3) Qualifying families may use CC for any activity including employment, job search, training, shelter search, or working through a crisis situation.

(4) If the family is eligible for a different type of CC, the family will be paid under the other type of CC.

### **R986-700-713. Amount of Child Care Assistance.**

~~[Child Care assistance]~~CC will be paid at the lower of the following levels.

(1) The maximum monthly local market rate as calculated using the Local Market Survey.

(2) The rate established by the provider for services and reported to the local Care About Child[-]care agency or the Department, provided that CC cannot pay more for services than is charged to the public for the same service.

(3)(i) The unit cost multiplied by the number of hours approved by the Department.

(ii) The unit cost is determined by dividing the maximum monthly local market rate by 137.6 hours.

### **R986-700-716. Child Care Assistance in Unusual Circumstances.**

(1)(a) ~~[Employment Support Child Care assistance]~~ES CC may be authorized to support clients in education or training activities and study time, or for time between classes if the parent has classes scheduled in such a way that it is not feasible or practical to pick up the child between classes.

(b) The Department will only approve ES CC for study time hours up to the same number of hours the client is enrolled in approved classes, except as authorized in Subsection (1)(a).

(c) For customers enrolled in a WIOA or TANF FEP funded programs, the Department may authorize additional ~~[Child Care assistance]~~CC than would be approved under Subsection (1)(b).

(d) The Department may authorize ES CC for ~~[time that a client attends an away from home study hall or lab required as part of an]~~ approved class activities away from home.

(2)(a) ~~[Employment Support Child Care assistance]~~ES CC may be authorized to support employment for clients who work graveyard shifts and need child care services during the day for sleep time.

(b) If no other child care options are available, child care services may be authorized for the graveyard shift or during the day, but not for both.



(3)(a) ~~[Employment Support Child Care assistance]~~ ES CC may be authorized to support telework or self-employment, except as otherwise provided by rule, for clients who work at home if the client makes at least minimum wage from the at-home work and the client has a need for child care services.

(b) The client must choose a provider setting outside the home, unless a child in the home has special needs and has been approved for special needs child care as defined in Section R986-700-717.

**R986-700-727. Approved Provider Responsibilities.**

(1)(a) The provider shall assume the responsibility to collect any copayment and any other fee for child care services.

(b) Neither the Department nor the state assumes responsibility for private payment to a provider.

(2) Time and Attendance Records.

~~(a) A licensed family provider or licensed center must track attendance using an electronic system which meets Department criteria and provide these records to the Department upon request. Attendance records submitted to the Department in other formats may not be accepted and may result in an overpayment.~~

~~(a) An accurate record of time and attendance for each CC client must be kept for at least three years.~~

~~(b) If a provider is not able to produce an accurate time and attendance record for a specific CC client for a specific month, there is a rebuttable presumption that the provider did not provide child care for that CC client during that month.~~

~~(c) "Accurate record" means a record that:~~

~~(i) was made at or near the time of the event;~~

~~(ii) was made by, or from information transmitted by, someone with knowledge; and~~

~~(iii) neither the source of information nor the method or circumstances of preparation of the record indicate a lack of trustworthiness.~~

~~(d) To receive a CC payment for an eligible household, the provider must contact the Department to report the children in care and their start date in care.~~

~~(e) A licensed family provider or licensed center must report attendance using an electronic system which meets Department criteria.~~

~~(f) Provider Portal.~~

~~(g) The provider has an ongoing responsibility to access the Provider Portal located at the Department website to:~~

~~(i) submit ongoing, monthly certification;~~

~~(ii) submit and manage bank account information, including reading and agreeing to the Financial Terms and Conditions contained in the Provider Portal;~~

~~(iii) view CC payment information; and~~

~~(iv) manage Provider Portal user access to ensure only a user with authority to make changes can do so.~~

~~(h) The provider is liable for any change made and information provided through the Provider Portal.~~

~~(i) Change reporting. Except as otherwise provided, a provider shall report any of the changes listed in this subsection to the Department within ten calendar days after the changes are known to the provider.~~

~~(a) A reduced or part-time rate for an individual child in care.~~

~~(b) Any rate change or other update that occurs for each child once a rate has been submitted in the Provider Portal.~~

~~(c) Each of the following child care attendance circumstances.~~

~~(i) Each child who attended less than eight hours of child care in the first month that a subsidy was paid and who is not expected to attend in the next month.~~

~~(ii) Each child who attended less than eight hours of child care in the first month that a subsidy was paid, and who attends or is expected to attend at least eight hours in the next month.~~

~~(iii) Each child who did not attend at least eight hours of child care in the current month and the provider determines that the child will not be returning.~~

~~(iv) If a child did not attend at least eight hours in a month and the provider cannot communicate with the parent to determine if the child will be returning to care, the provider shall report by the 25th of the month.~~

~~(v) Each child who is not expected to attend at least eight hours in the next month.~~

~~(vi) When the provider ceases to provide child care for a child.~~

~~(d) If the provider received a greater CC payment amount than what was charged to the client for the month of service.~~

~~(e) If the provider changes its financial institution account information for direct deposit.~~

~~(f) Certification.~~

~~(g) A licensed provider shall certify between the 25th of each month and the last day of the month, in a manner specified by the Department, the following:~~

~~(i) the provider has reviewed each child's attendance; and~~

~~(ii) the provider has reported any reportable change in each child's attendance, including any future change known or expected by the provider.~~

~~(h) The provider shall certify that the provider agrees to the terms and conditions specified in the most current Provider Guide.~~

~~(i) If a provider fails to certify by the last day of the month, CC payment may be withheld until certification is completed pursuant to Section R986-700-729.~~

~~(ii) The Department may also increase monitoring or take other remedial action pursuant to OCC policy to ensure future compliance.~~

~~(j) A provider who is assessed an overpayment or IPV pursuant to Section R986-700-731 or R986-700-732 may be subject to increased monitoring or other remedial action pursuant to OCC policy to ensure future compliance with program rules.~~

**R986-700-728. Appropriate use of CC.**

(1) ~~[Child Care assistance]~~CC is to support an eligible client's monthly employment and any allowed training activity and allows for temporary absences and unforeseen circumstances.

(2) A provider must provide at least eight hours of care during the initial benefit month for which a CC payment was issued to be eligible for CC payment.

(a) A provider has the burden of proof to demonstrate the provider provided care to each CC client for which it receives CC payment.

(b) Pursuant to Subsection R986-700-727(2), if a provider is not able to produce a time and attendance record for a specific CC client for a specific month, there is a rebuttable presumption that the provider did not provide child care for that CC client during that month.

(3) Inappropriate use of a CC payment.

(a) Applying the CC payment to a:

(i) copayment;

(ii) registration fee;

(iii) late fee;

(iv) field trip; or

(v) client's out of pocket expenses.

(b) Carrying forward the CC payment for future months of service.

(4)(a) An excess CC payment cannot be used to cover an outstanding balance, a copayment, a registration fee, a late fee, a field trip, or future services.

(b) If excess funds are issued for a month of service, the excess funds must be returned to the Department.

(c) The CC payment for the following month may be reduced to offset the over-issuance.

(5) A provider who receives a CC payment when the child has not attended at least eight hours in a month may be responsible for repayment of any resulting overpayment under Title 35A, Chapter 3, Part 6, Administrative Determination of Overpayment Act, and Sections R986-700-731 and R986-700-731.1, and there may be a disqualification period pursuant to Sections R986-700-733 and R986-700-734, and potential criminal prosecution under Title 76, Chapter 8, Part 12, Public Assistance Fraud.

(6) A provider who provides services for any part of a month and then terminates services with the client or for a child during the month may be required to reimburse the Department for the days when care was not provided.

(a) If it was necessary to remove the child from care because the child or others were endangered, and the incident was reported to CCL or local authorities, the Department may waive repayment.

(7) The Department will issue a IRS Form 1099 annually where applicable to each eligible provider who received a CC payment during the year.

(8) A provider who applies CC funds inappropriately may be subject to an overpayment and possible disqualification pursuant to Sections R986-700-731, R986-700-733, and R986-700-734.

**R986-700-731.1. Collection of Overpayments.**

(1) A CC overpayment must be repaid to the Department pursuant to Section 35A-3-603.

(a) The Department reserves the right to pursue collection of any overpayment pursuant to Title 35A, Chapter 3, Part 6, Administrative Determination of Overpayment Act.

(b) For the purposes of this section "recoupment" or "recoup" means applying a CC payment or grant funds to an overpayment balance.

(c) For the purposes of this section "withholding" means delaying payment until a specified condition is met. Once the condition is met, the payment will be released.

(2) A client who is receiving CC and has an outstanding CC overpayment balance may be subject to recoupment of the overpayment from ongoing CC payment.

(3) If a provider does not repay an overpayment within 30 days of the order establishing that overpayment, the Department ~~[will]~~may take one of the following actions:

(a) for a provider receiving an ESG, recoup grant funds pursuant to Subsection R986-700-742(3), regardless of whether the provider agrees to recoupment;

(b) recoup a CC payment, if the provider voluntarily agrees to recoupment;

(c) establish a repayment plan with the provider;

(d) if the provider is not receiving an ESG and does not establish a repayment plan or voluntary recoupment, or fails to comply with a repayment plan, withhold any CC payment until the provider establishes a repayment plan or voluntary recoupment, the provider complies with the repayment plan, or the overpayment is paid in full; or

(e) file an abstract of the final administrative order and pursue a lien pursuant to Section 35A-3-606.

(4) Providers with adjudicated overpayments and who are not current on a repayment plan are ineligible to apply for grants administered through OCC.

(5) Overpayment assessed against a provider before May 8, 2020. For a provider that accrued any overpayment that has not been repaid before May 8, 2020, the following provisions apply.

(a) A provider shall repay an overpayment within 12 months of the order establishing that overpayment or enter into and comply with a repayment plan.

(b) A provider that does not repay an overpayment within 12 months of the order establishing the overpayment or comply with a repayment plan shall be subject to one of the following:

- (i) for a provider receiving an ESG, involuntary recoupment of an ESG pursuant to Subsection R986-700-742(3), regardless of whether the provider agrees to recoupment;
- (ii) voluntary recoupment of a CC payment, if the child care provider agrees to the voluntary recoupment;
- (iii) the Department may withhold CC payment until the overpayment is paid in full; or
- (c) the Department may file an abstract of the final administrative order and pursue a lien pursuant to Section 35A-3-606.
- ([5]6) A provider ~~shall~~ may not penalize any current CC client as a result of a Department collection action.
  - (i) "Penalize" includes:
    - (A) requiring a client to pay new or additional fees for service, excluding the copayment or amount exceeding the CC payment; or
    - (B) terminating services with the client.
  - ([6]7) If the client or provider files a timely appeal, collection procedures will be stayed during the appeal process.

**~~[R986-700-901. Unearned Income, Pandemic:~~**

- ~~(1) This Section supersedes any conflicting provisions of Rules R986-200 and R986-700.~~
- ~~(2) Federal Pandemic Unemployment Compensation under Section 2104 of the Coronavirus Aid, Relief, and Economic Security Act of 2020, Pub. L. No. 116-136, is not countable unearned income for purposes of determining eligibility for any child care subsidy program.~~
- ~~(3) Lost Wages Assistance paid pursuant to the August 8, 2020, Presidential Memorandum instructing the Secretary of Homeland Security, acting through FEMA, to make available other needs assistance for lost wages in accordance with Section 408(e)(2) of the Stafford Act (42 U.S.C. Subsection 5174(e)(2)), is not countable unearned income for purposes of determining eligibility for any child care subsidy program.~~
- ~~(4) Federal Pandemic Unemployment Compensation under section 203 of the Continued Assistance Act, part of the Consolidated Appropriations Act, 2021, Pub. L. 116-260, enacted on December 27, 2020, is not countable unearned income for purposes of determining eligibility for any child care subsidy program.]~~

**KEY: child care, grant programs**

**Date of Last Change: [April 1], 2024**

**Notice of Continuation: August 28, 2020**

**Authorizing, and Implemented or Interpreted Law: 35A-3-203; 35A-3-209; 35A-3-310; 35A-3-312; 45 C.F.R. 98.21**

**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		
<b>Rule or Section Number:</b>	R657-54a	Filing ID: 56703
<b>Effective Date:</b>	08/08/2024	

### Agency Information

<b>1. Title catchline:</b>	Natural Resources, Wildlife Resources	
<b>Building:</b>	DNR Complex	
<b>Street address:</b>	1594 W. North Temple	
<b>City, state</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146301	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6301	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Staci Coons	801-450-3093	stacicoons@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

### General Information

<b>2. Rule or section catchline:</b>	R657-54a. Taking Wild Turkey
--------------------------------------	------------------------------

<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being filed to replace Rule R657-54, Taking Wild Turkey, which expired due to a five-year review not being filed by the deadline.  All text is consistent with the original rule.
<b>4. Summary of the new rule or change:</b>
Under authority of Sections 23A-2-304 and 23A-2-305, the Wildlife Board has established this rule for taking wild turkey. This new rule replaces Rule R657-54 and is substantively the same.
<b>5A) The agency finds that regular rulemaking would:</b>
<input type="checkbox"/> cause an imminent peril to the public health, safety, or welfare;
<input checked="" type="checkbox"/> cause an imminent budget reduction because of budget restraints or federal requirements; or
<input checked="" type="checkbox"/> place the agency in violation of federal or state law.
<b>B) Specific reasons and justifications for this finding:</b>
Under Subsection 63G-3-304(1)(c), the Division of Wildlife Resources (DWR) will be unable to comply with state law, specifically Sections 23A-4-202, 23A-4-401, 23A-4-701, 23A-4-706; 23A-4-707.  R657-54a effectuates the application and purchase of turkey permits. This rule also directs the usage of those permits.  Furthermore, the sale of permits for the taking of turkeys is DWR's primary means of meeting its statutory mandate to manage protected wildlife. Without this rule in place directing how those permits are obtained and used, DWR is unable to comply with this mandate.  Finally, DWR obtains substantial income from the sale of permits, including turkey permits. This income is anticipated in our annual budget. If this rule is not in place and permits cannot be sold, DWR will experience a budget reduction. This too justifies an emergency rule under Subsection 63G-3-304(1)(b).

**Fiscal Information**

<b>6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
Rule R657-54a is replacing a rule that already existed (R657-54) but it expired. This rule is substantively the same therefore, the DWR has determined that these changes can be initiated within the current workload and resources of DWR.  Therefore, DWR does not believe that this rule would create a cost or savings impact to the state budget or the DWR's budget since this filing just put the rule back into place.
<b>B) Local governments:</b>
Rule R657-54a is replacing a rule that already existed (R657-54) but it expired. This rule is substantively the same, therefore, local governments are not directly or indirectly impacted by this rule nor does this rule create a situation requiring services from local governments.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
Rule R657-54a is replacing a rule that already existed (R657-54) but it expired. This rule is substantively the same. Therefore, this rule will not directly impact small businesses because a service is not required of them.
<b>D) Persons other than small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):
Rule R657-54a is replacing a rule that already existed (R657-54) but it expired. This rule is substantively the same. Therefore, this rule will not directly impact non-small businesses because a service is not required of them.

<p><b>E) Compliance costs for affected persons</b> (How much will it cost an impacted entity to adhere to this rule or its changes?):</p> <p>Rule R657-54a is replacing a rule that already existed (R657-54) but it expired. This rule is substantively the same. Therefore the new rule does not have the potential to impact other persons that hunt wild turkey in Utah, nor is a service required of them.</p>
<p><b>F) Comments by the department head on the fiscal impact this rule may have on businesses</b> (Include the name and title of the department head):</p> <p>The DWR has determined that this new rule may not create additional costs for those individuals wishing to hunt wild turkey in Utah because it simply reinstates an expired rule. Joel Ferry, DNR Executive Director</p>

**Citation Information**

<p><b>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:</b></p>		
Section 23A-2-304	Section 23A-2-305	

**Incorporations by Reference Information**

<p><b>8. Incorporations by Reference :</b></p>	
<p><b>A) This rule adds or updates the following title of materials incorporated by references :</b></p>	
<p><b>Official Title of Materials Incorporated (from title page)</b></p>	Title 50 Wildlife and Fisheries Part 20 – Migratory Bird Hunting
<p><b>Publisher</b></p>	US Government
<p><b>Issue Date</b></p>	2003

**Agency Authorization Information**

<p><b>Agency head or designee and title:</b></p>	J. Shirley, Division Director	<p><b>Date:</b></p>	08/08/2024
--	-------------------------------	---------------------	------------

**R657. Natural Resources, Wildlife Resources.**

**R657-54a. Taking Wild Turkey.**

**R657-54a-1. Purpose and Authority.**

(1) Under authority of Sections 23A-2-304 and 23A-2-305 and in accordance with 50 CFR 20, 2003 edition, which is incorporated by reference, the Wildlife Board has established this rule for taking wild turkey.

(2) Specific season dates, bag and possession limits, areas open, number of permits and other administrative details that may change annually are published in the guidebook of the Wildlife Board for taking upland game and wild turkey.

**R657-54a-2. Definitions.**

(1) Terms used in this rule are defined in Section 23A-1-101.

(2) In addition:

(a) "Bait" means shelled, shucked or unshucked corn, wheat or other grain, salt or other feed that lures, attracts or entices wild turkey.

(b) "Baiting" means the direct or indirect placing, exposing, depositing, distributing, or scattering of salt, grain, or other feed that could serve as a lure or attraction for wild turkey to, on, or over any areas where hunters are attempting to take them.

(c) "CFR" means the Code of Federal Regulations.

(d) "Falconry" means the sport of taking quarry by a trained raptor.

(e) "Fall season permit" means any wild turkey hunting permit having season dates on or between August 1 to March 14, excluding turkey permits issued pursuant to Rule R657-41 and turkey control permits issued pursuant to Section R657-69-6.

(f) "Night vision device" means any device that enhances visible or non-visible light, including: night vision, thermal imaging, infrared imaging, or electronics that enhance the visible or non-visible light spectrum.

(g) "Pre-charged pneumatic air rifle" means a rifle that fires a single projectile with compressed air released from a chamber:

(i) built into the rifle; and

(ii) pressurized at a minimum of 2,000 pounds per square inch from an external high compression device or source, such as a hand pump, compressor, or scuba tank firing a single:

(A) broadhead tipped bolt or arrow; or

(B) pellet or slug during fall turkey season that:

(I) is .25 caliber or larger;

(II) weighs 18 grains or more; and

(III) is fired at a velocity to produce at least 30 foot-pounds of energy at the muzzle.

(h) "Spring season permit" means any wild turkey hunting permit having season dates on or between March 15 to July 31, excluding turkey permits issued pursuant to Rule R657-41 and turkey control permits issued pursuant to Section R657-69-6.

(i) "Wild Turkey" as used in this rule means a wild, free-ranging turkey and does not include a privately-owned wild turkey, domestic turkey, or wild-domestic hybrids.

**R657-54a-3. Obtaining Permits for Wild Turkey.**

(1) A person must possess or obtain a valid hunting or combination license to apply for or obtain a wild turkey permit.

(2) General season wild turkey permits are issued over-the-counter consistent with this rule and the guidebook of the Wildlife Board for taking upland game and wild turkey.

(3) Limited entry permits for wild turkey are issued pursuant to Section R657-62-25.

(4) Wild turkey control permits and wild turkey control permit vouchers are issued pursuant to Rule R657-69.

(5) Wild turkey conservation and sportsman's permits are issued pursuant to Rule R657-41.

(6) Wild turkey permits available through the Expo are issued pursuant to Rule R657-55.

(7) Wild turkey poaching-reported reward permits are issued pursuant to Rule R657-51.

**R657-54a-4. Authorized Weapons.**

Wild turkey may be taken only with:

(1) Archery equipment, including a draw-lock, or a crossbow using broadhead tipped arrows or bolts;

(2) a shotgun, firing shot sizes BB and smaller diameter;

(3) a rimfire firearm during any fall season permit; or

(4) a pre-charged pneumatic air rifle during any fall season permit.

**R657-54a-5. Shooting Hours.**

(1) Wild turkey may be taken only between one-half hour before official sunrise through one-half hour after official sunset.

(2) A person must add to or subtract from the official sunrise and sunset depending on the geographic location of the state.

(3) Specific shooting hours shall be provided in a time zone map in the guidebook of the Wildlife Board for taking upland game and wild turkey.

**R657-54a-6. State Parks.**

(1) Hunting of any wildlife is prohibited within the boundaries of all state park areas, except those areas designated open to hunting by the Division of State Parks in Section R651-614-4.

(2) Hunting with rifles and handguns in state park areas designated open is prohibited within one mile of all park facilities including buildings, camp or picnic sites, overlooks, golf courses, boat ramps, and developed beaches.

(3) Hunting with shotguns, crossbows or archery tackle is prohibited within one-quarter mile of the stated areas.

**R657-54a-7. Falconry.**

Falconers may not release a raptor on wild turkeys during the spring seasons. Falconers may release a raptor on wild turkeys during the fall season, as published in the guidebook of the Wildlife Board for taking upland game and wild turkey.

**R657-54a-8. Live Decoys and Electronic Calls.**

A person may not take a wild turkey by the use or aid of live decoys, robotic decoys, night vision devices, drones, recorded turkey calls or sounds, or electronically amplified imitations of turkey calls.

**R657-54a-9. Baiting.**

A person may not hunt turkey using bait, or on or over any baited area where a person knows or reasonably should know that the area is or has been baited. An area is considered baited for 10 days after bait is removed, or 10 days after bait in an area is eaten.

**R657-54a-10. Sitting or Roosting Turkeys.**

A person may not take or attempt to take a wild turkey sitting or roosting in a tree, power pole, or other elevated structure.

**R657-54a-11. Tagging Requirements.**

(1) A person that takes a wild turkey must tag the carcass, as provided in Section 23A-5-309, immediately upon taking possession of the carcass.

(2) To tag a carcass, a person shall:

(a) completely detach the tag from the license or permit;

(b) completely remove the appropriate notches to correspond with:

(i) the date the wild turkey was taken;

(ii) the sex of the wild turkey; and

(c) attach the tag to the carcass so that the tag remains securely fastened and visible.

(3) A person may not:

(a) remove more than one notch indicating date or sex; or

(b) tag more than one carcass using the same tag.

NOTICES OF 120-DAY (EMERGENCY) RULES

(4) A person may not hunt or pursue a wild turkey after:

(a) shooting and retrieving the bird;

(b) the tag is detached from the permit;

(c) any of the notches have been removed from the tag.

**R657-54a-12. Identification of Species and Sex.**

The head and beard must remain attached to the carcass of a wild turkey while being transported.

**R657-54a-13. Use of Dogs.**

(1) An individual may not use or permit a dog to harass, pursue, or take wild turkey unless otherwise allowed for in Title 23A, the Wildlife Resources Code of Utah, or the administrative rules or guidebooks of the Wildlife Board.

(2) Dogs may be used to locate and retrieve wild turkey during open wild turkey hunting seasons.

(3) Dogs are generally allowed on state wildlife management and waterfowl management areas, subject to the following conditions:

(a) dogs are not allowed on the following state wildlife management areas and waterfowl management areas between March 10 and August 31 annually or as posted by the division:

(i) Annabella;

(ii) Bear River Trenton Property Parcel;

(iii) Bicknell Bottoms;

(iv) Blue Lake;

(v) Browns Park;

(vi) Bud Phelps;

(vii) Clear Lake;

(viii) Desert Lake;

(ix) Farmington Bay;

(x) Harold S. Crane;

(xi) Hatt's Ranch;

(xii) Howard Slough;

(xiii) Huntington;

(xiv) James Walter Fitzgerald;

(xv) Kevin Conway;

(xvi) Locomotive Springs;

(xvii) Manti Meadows;

(xviii) Mills Meadows;

(xix) Montes Creek;

(xx) Nephi;

(xxi) Ogden Bay;

(xxii) Pahvant;

(xxiv) Public Shooting Grounds;

(xxv) Redmond Marsh;

(xxvi) Richfield;

(xxvii) Roosevelt;

(xxviii) Salt Creek;

(xxix) Scott M. Matheson Wetland Preserve;

(xxx) Steward Lake;

(xxxi) Timpie Springs;

(xxxii) Topaz Slough;

(xxxiii) Vernal; and

(xxxiv) Willard Bay.

(b) the division may establish special restrictions for Division-managed properties, such as on-leash requirements and temporary or locational closures for dogs, and post them at specific division properties and at Regional offices;

(c) organized events or group gatherings of 25 or more individuals that involve the use of dogs, such as dog training or trials, that occur on Division properties may require a special use permit as described in Rule R657-28;

(d) dog training may be allowed in designated areas on Lee Kay Center and Willard Bay WMA by the division without a special use permit; and

(e) dogs are only allowed on the Nature Trail within the Hasenyager Nature preserve and must be on a leash.

(4) Wild turkeys may not be used for any dog training exercises.

(5) Dogs may be used to locate wild turkey as part of division sanctioned survey efforts.

**R657-54a-14. Closed Areas.**

A person may not hunt wild turkey in any area posted closed by the division or any of the following areas:

(1) Salt Lake Airport boundaries as posted;

(2) incorporated municipalities;



- (a) many incorporated municipalities prohibit the discharge of firearms and other weapons. Check with the respective city officials for specific boundaries and limitations;
- (3) all State Waterfowl Management Areas except Browns Park and Stewart Lake;
- (4) all National Wildlife Refuges unless declared open by the managing authority; and
- (5) military installations, except as otherwise provided under Rule R657-66, are closed to hunting and trespassing.

**R657-54a-15. Possession of Live Protected Wildlife.**

It is unlawful for any person to hold in captivity at any time any protected wildlife, except as provided by Title 23A, the Wildlife Resources Code of Utah, or any rules of the Wildlife Board. Every wild turkey wounded by hunting and reduced to possession by the hunter shall be immediately killed and tagged pursuant to Section R657-54a-11.

**R657-54a-16. Spotlighting.**

- (1) Except as provided in Section 23A-1-204:
  - (a) a person may not use or cast the rays of any spotlight, headlight, or other artificial light to locate wild turkeys while having in their possession a firearm or other weapon or device that could be used to take or injure wild turkey; and
  - (b) the use of a spotlight or other artificial light in a field, woodland or forest where wild turkey are generally found is probable cause of attempting to locate protected wildlife.
- (2) This section does not apply to:
  - (a) the use of the headlights of a motor vehicle or other artificial light in a usual manner where there is no attempt or intent to locate protected wildlife.

**R657-54a-17. Exporting Wild Turkey from Utah.**

- A person may export wild turkey or their parts from Utah only if:
- (1) The person who harvested the wild turkey accompanies it and possess a valid permit corresponding to the tag; or
  - (2) The person exporting the wild turkey or its parts, if it is not the person who harvested the wild turkey, has obtained a shipping permit from the division.

**R657-54a-18. Waste of Game.**

- (1) A person may not waste or permit to be wasted or spoiled a wild turkey or their parts.
- (2) A person may not kill or cripple a wild turkey without making a reasonable effort to retrieve the wild turkey.

**R657-54a-19. Purchasing or Selling Wild Turkey Parts.**

- (1) A person may only purchase, sell, offer or possess for sale, barter, exchange or trade any wild turkey or its parts as follows:
  - (a) Untanned or tanned hides, feather, bone, nail, or beak of legally taken wild turkey may only be sold by the hunter who harvested the wild turkey.
  - (b) An individual hunter may only sell one possession limit as defined by the Wildlife Board and guidebook for upland game and turkey per year.
  - (c) Resale may only occur as derivative products such as artificial fishing flies.
- (2) A person selling or purchasing untanned or tanned hides, feather, bone, nail, or beak of legally taken wild turkey shall keep transaction records stating:
  - (a) the name and address of the person who harvested the wild turkey;
  - (b) the transaction date; and
  - (c) the hunting license number of the person who harvested the wild turkey.

**R657-54a-20. Wild Turkey Poaching-Reported Reward Permits.**

Wild turkey poaching-reported reward permits are issued pursuant to Rule R657-51.

**R657-54a-21. Season Dates, Bag and Possession Limits, and Areas Open.**

- (1) Season dates, bag and possession limits, areas open, and number of permits for taking wild turkey are provided in the guidebook of the Wildlife Board for taking upland game and wild turkey.
- (2) A person may not obtain or possess more than:
  - (a) one wild turkey permit during the spring season annually; and
  - (b) three wild turkey permit during the fall season annually.

**KEY: wildlife, wild turkey, game laws**

**Date of Last Change: August 8, 2024**

**Authorizing, and Implemented or Interpreted Law: 23A-2-304; 23A-2-305**

NOTICE OF EMERGENCY (120-DAY) RULE		
<b>Rule or Section Number:</b>	<b>R657-68a</b>	<b>Filing ID: 56704</b>
<b>Effective Date:</b>	<b>08/08/2024</b>	

**Agency Information**

<b>1. Title catchline:</b>	Natural Resources, Wildlife Resources	
<b>Building:</b>	DNR Complex	
<b>Street address:</b>	1594 W North Temple	
<b>City, state</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146301	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6301	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Staci Coons	801-450-3093	stacicoons@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R657-68a. Trial Hunting Authorization
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being filed to replace Rule R657-68, Trial Hunting Authorization, which expired due to a five-year review not being filed by the deadline.  All text is consistent with the original rule.
<b>4. Summary of the new rule or change:</b>
Pursuant to Sections 23A-2-304 and 23A-2-305, this rule implements the trial hunting authorization program established in Section 23A-4-701 to expand public participation in hunting sports by allowing a person to temporarily obtain specified hunting licenses and permits and participate in hunting activities on a trial basis without first satisfying regular hunter education requirements.  This new rule replaces Rule R657-68 and is substantively the same.
<b>5A) The agency finds that regular rulemaking would:</b>
<input type="checkbox"/> cause an imminent peril to the public health, safety, or welfare;
<input checked="" type="checkbox"/> cause an imminent budget reduction because of budget restraints or federal requirements; or
<input checked="" type="checkbox"/> place the agency in violation of federal or state law.
<b>B) Specific reasons and justifications for this finding:</b>
Under Subsection 63G-3-304(1)(c), the Division of Wildlife Resources (DWR) will be unable to comply with state law, specifically Sections 23A-4-202, 23A-4-401, 23A-4-701, 23A-4-706; 23A-4-707.

**Fiscal Information**

<b>6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
Rule R657-68a is replacing a rule that already existed (R657-68) but it expired. This rule is substantively the same therefore, the DWR has determined that these changes can be initiated within the current workload and resources of DWR.  Therefore, DWR does not believe that this rule would create a cost or savings impact to the state budget or the DWR's budget since this filing just put the rule back into place.

<b>B) Local governments:</b>
Rule R657-68a is replacing a rule that already existed (R657-68) but it expired. This rule is substantively the same, therefore, local governments are not directly or indirectly impacted by this rule nor does this rule create a situation requiring services from local governments.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
Rule R657-68a is replacing a rule that already existed (R657-68) but it expired. This rule is substantively the same. Therefore, this rule will not directly impact small businesses because a service is not required of them.
<b>D) Persons other than small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):
Rule R657-68a is replacing a rule that already existed (R657-68) but it expired. This rule is substantively the same. Therefore, this rule will not directly impact non-small businesses because a service is not required of them.
<b>E) Compliance costs for affected persons</b> (How much will it cost an impacted entity to adhere to this rule or its changes?):
Rule R657-68a is replacing a rule that already existed (R657-68) but it expired. This rule is substantively the same. Therefore the new rule does not have the potential to impact other persons that hunt in Utah, nor is a service required of them.
<b>F) Comments by the department head on the fiscal impact this rule may have on businesses</b> (Include the name and title of the department head):
The DWR has determined that this new rule may not create additional costs for those individuals wishing to hunt in Utah because it simply reinstates an expired rule. Joel Ferry, DNR Executive Director

**Citation Information**

<b>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:</b>		
Section 23A-2-304	Section 23A-2-305	Section 23A-4-701

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	J. Shirley, Division Director	<b>Date:</b>	08/08/2024
---	-------------------------------	--------------	------------

**R657. Natural Resources, Wildlife Resources.**

**R657-68a. Trial Hunting Authorization.**

**R657-68a-1. Purpose and Authority.**

Pursuant to Sections 23A-2-304 and 23A-2-305, this rule implements the trial hunting authorization program established in Section 23A-4-701 to expand public participation in hunting sports by allowing a person to temporarily obtain specified hunting licenses and permits and participate in hunting activities on a trial basis without first satisfying regular hunter education requirements.

**R657-68a-2. Definitions.**

- (1) Terms used in this rule are defined in Section 23A-1-101.
- (2) In addition:
  - (a) "Commercial hunting area" means a parcel of land where privately owned game birds are released under Section 23A-12-202 and Rule R657-22 for allowing hunters to take them for a fee.
  - (b) "Division drawing" means a random selection process administered by the division or under its authority for allocating hunting permits to the public.
    - (i) "Division drawing" includes the wildlife expo permit drawing administered under Rule R657-55.
  - (c) "Multi-year license" means a license issued by the division under Section R657-45-3 that is valid for a period exceeding 365 days.
  - (d) "Supervising hunter" means a person qualified under Subsection R657-68a-5(1)(b) that accompanies a trial hunter while participating in hunting activities.
  - (e) "Trial hunter" means a person who possesses a valid hunting license or permit obtained with a trial hunting authorization pursuant to this rule.

NOTICES OF 120-DAY (EMERGENCY) RULES

(f) "Trial hunting authorization" means a document issued by the division authorizing the holder to obtain and use specified hunting licenses and permits without having completed an approved hunter education course, subject to the qualifications, requirements and limitations set forth in this rule.

(g) "Written consent" means a written or typed document containing the:

(i) full name, date of birth, and home address of the trial hunter;

(ii) full name, home address, and phone number of the supervising hunter;

(iii) nature of the planned hunting activity and the general area where it will occur;

(iv) parent or legal guardian's consent for the:

(A) trial hunter to participate in the described hunting activity; and

(B) supervising hunter to transport and accompany the trial hunter in the activity; and

(v) name, signature, and phone number of the authorizing parent or legal guardian.

**R657-68a-3. Obtaining a Trial Hunting Authorization.**

(1) Upon application, the division may issue a trial hunting authorization to a resident or nonresident who:

(a) is 11 years of age or older at the time of application;

(b) is eligible under state and federal law to possess a firearm, muzzleloader, bow and arrow, or crossbow;

(c) is born after December 31, 1965 and has not completed an approved hunter education course; and

(d) successfully completes an abbreviated online course on trial hunting program requirements and hunting ethics and safety.

(2) The division may charge a handling fee for a trial hunting authorization.

**R657-68a-4. Effect and Term of a Trial Hunting Authorization.**

(1)(a) A person who obtains a trial hunting authorization will receive an accompanying registration number to be used in lieu of a hunter education number when applying for or purchasing a hunting license or permit authorized in Subsection (b).

(b) A person who possesses a trial hunting authorization may apply for and purchase the following Utah hunting licenses and permits, notwithstanding the hunter education requirements in Section 23A-4-1001 and Rule R657-23:

(i) hunting license, excluding multi-year licenses;

(ii) combination license, excluding multi-year licenses;

(iii) all hunting permits, excluding the following big game permits allocated through a division drawing:

(A) premium limited entry;

(B) limited entry;

(C) once-in-a-lifetime;

(D) cooperative wildlife management unit;

(E) dedicated hunter; and

(F) sportsman.

(2)(a) A trial hunting authorization:

(i) is valid for a single, three year term, except as provided in Subsection (6); and

(ii) shall immediately terminate upon the holder successfully completing an approved hunter education course, as provided in Section 23A-4-1001 and Rule R657-23.

(b) A person may not obtain more than one trial hunting authorization in a lifetime.

(3) A trial hunting authorization shall be considered an "approved hunter education course" under Subsection 23A-12-202 (3)(a)(ii) for the exclusive and limited purpose of hunting on a commercial hunting area.

(a) A person who hunts on a commercial hunting area with a trial hunting authorization is subject to the requirements in Section R657-68a-5.

(4)(a) A person who possesses a current trial hunting authorization may not participate in the Hunter Mentoring Program, Rule R657-67, as a hunting mentor.

(b) A person who possesses a current trial hunting authorization may participate in the Hunter Mentoring Program, Rule R657-67, as a qualifying minor, as hereafter provided.

(i) A trial hunting authorization will be recognized by the division as a "hunter education program" under Subsection R657-67-3(1)(b) for the exclusive and limited purpose of a qualifying minor participating in the Hunter Mentoring Program.

(ii) Notwithstanding the big game permit limitations in Subsection R657-68a-4(1)(b)(iii), a qualifying minor possessing a current trial hunting authorization may share any big game permit authorized in the Hunter Mentoring Program rule.

(iii) Both the qualifying minor and hunting mentor are subject to the this rule and the Hunter Mentoring Program rule when a hunting permit is shared under Section R657-67-3 with a qualifying minor possessing a current trial hunting authorization.

(5) A person that applies for a big game hunting permit with a trial hunting authorization is subject to the minimum age requirements set forth in Section 23A-4-703.

(6)(a) A trial hunting authorization that expires after a hunting permit application is filed in a division drawing shall remain valid to the date the permit is issued for the exclusive purpose of receiving and using the permit.

(i) A trial hunting authorization extended under Subsection (6)(a) beyond the prescribed three year term may not be used during the extension period to obtain any other hunting license or permit.

(b) A person that obtains a license or permit with a valid trial hunting authorization that thereafter expires before the conclusion of the hunting season assigned to that license or permit may use the license or permit through the entire season, subject to the limitations and conditions set forth in Section R657-68a-5.

(c) A person that successfully completes an approved hunter education course before using a hunting license or permit obtained with a trial hunting authorization is not subject to the limitations and conditions set forth in Section R657-68a-5, provided proof of hunter education compliance is carried on the person while hunting.

**R657-68a-5. Using a Hunting License or Permit Obtained with a Trial Hunting Authorization.**

A person that obtains a hunting license or permit with a trial hunting authorization issued under Section R657-68a-3 may use the license or permit, provided they are:

- (1) 12 years of age or older; and
- (2) accompanied, as defined in Subsection 23A-4-708(1), in the field at all times while hunting by a resident or nonresident, supervising hunter who:
  - (a) is 21 years of age or older;
  - (b) is eligible under state and federal law to possess a firearm and archery equipment;
  - (c) possesses a current Utah hunting or combination license;
  - (d) has satisfied applicable hunter education requirements under Section 23A-4-1001; and
  - (e) obtains the written consent of the parent or legal guardian when accompanying a trial hunter that is under 18 years of age.

**R657-68a-6. Supervising Hunter Responsibilities.**

A supervising hunter that escorts a trial hunter under Subsection R657-68a-5(1)(b) shall:

- (1) accompany, as defined in Subsection 23A-4-708(1), the trial hunter at all times in the field while hunting;
- (2) not accompany more than two trial hunters in the field at any point in time;
- (3) provide the trial hunter direct supervision and instruction on hunting regulations, ethics and safety; and
- (4) possess on their person a valid Utah hunting or combination license issued in their name; and
- (5) possess the written consent of the parent or legal guardian when accompanying a trial hunter under 18 years of age.

**R657-68a-7. Violation and Discipline.**

(1)(a) A trial hunter may not take protected wildlife under authority of a license or permit obtained with a trial hunting authorization, unless accompanied at all times in the field by a supervising hunter satisfying the requirements of Subsection R657-68a-5(1)(b).

(b) A person may not take game birds on a commercial hunting area under authority of a trial hunting authorization, unless accompanied at all times in the field by a supervising hunter satisfying the requirements of Subsection R657-68a-5(1)(b).

- (2) The division may refuse to issue a trial hunting authorization to a person that:
  - (a) fails to satisfy the eligibility criteria in Section R657-68a-3 or Subsection R657-68a-5(1)(a);
  - (b) provides false or misleading information in the application for a trial hunting authorization; or
  - (c) has engaged in conduct that results in a conviction, no contest plea, plea held in abeyance, or diversion agreement to a:
    - (i) violation of the Wildlife Resources Code, or the rules and guidebooks of the Wildlife Board; or
    - (ii) crime that when considered with the privileges granted in a trial hunting authorization bears a reasonable relationship to the person's ability or willingness to safely and responsibly participate in the program.

(3) A hunting license or permit is invalid when obtained with a trial hunting authorization that is acquired by fraud, deceit, or misrepresentation.

**KEY: wildlife, game laws, hunter education**

**Date of Last Change: August 8, 2024**

**Authorizing, and Implemented or Interpreted Law: 23A-2-304; 23A-2-305; 23A-4-701**

**End of the Notices of 120-Day (Emergency) Rules Section**

# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at [adminrules.utah.gov](http://adminrules.utah.gov). The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

**REVIEWS** are governed by Section 63G-3-305.

## NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

<b>Rule Number:</b>	R151-1	<b>Filing ID:</b> 54760
<b>Effective Date:</b>	08/14/2024	

### Agency Information

<b>1. Title catchline:</b>	Commerce, Administration	
<b>Building:</b>	Heber M. Wells Bldg	
<b>Street address:</b>	160 E 300 S	
<b>City, state</b>	Salt Lake City, UT	
<b>Mailing address:</b>	PO Box 146701	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6701	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Masuda Medcalf	801-530-7663	mmedcalf@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

### General Information

<b>2. Rule catchline:</b>	R151-1. Department of Commerce General Provisions
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>	<p>Utah Constitution, Article IV, Section 10, provides the oath of office that must be taken by officers such as appointed board and commission members. This rule requires the oath to be given to board and commission members within the Department of Commerce (Department).</p> <p>Subsection 53-13-101(12) defines the term "sworn" as it relates to a person who is required to take an oath of office.</p> <p>Subsection 13-1-6(1) gives the Department general rulemaking authority.</p> <p>Subsection 13-1-2(1)(b) requires the Department to execute and administer state laws regulating business activities and occupations affecting the public interest. Board and commission members are key players in executing and administering those laws.</p>

Section 52-4-207, "Electronic Meetings -- Authorization -- Requirements," establishes the requirements applicable to electronic meetings conducted by video, audio, or both video and audio. This rule adopts those requirements as for electronic meeting conducted 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 received no comments on this rule.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule is authorized and mandated by law as noted in Box 3 above. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Masuda Medcalf, Administrative Law Judge	<b>Date:</b>	08/13/2024
---	--	--------------	------------

**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R156-17b</b>	<b>Filing ID: 55001</b>
<b>Effective Date:</b>	<b>08/05/2024</b>	

**Agency Information**

<b>1. Title catchline:</b>	Commerce, Professional Licensing		
<b>Building:</b>	Heber M. Wells Building		
<b>Street address:</b>	160 E 300 S		
<b>City, state</b>	Salt Lake City, UT 84111		
<b>Mailing address:</b>	PO Box 146741		
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6741		
<b>Contact persons:</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Jim Garfield	801-530-6628	jimgarfield@utah.gov	
<b>Please address questions regarding information on this notice to the persons listed above.</b>			

**General Information**

<b>2. Rule catchline:</b>
R156-17b. Pharmacy Practice Act Rule
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Title 58, Chapter 17b, provides for the licensure and regulation of various classification of pharmacy related licensees.
Subsection 58-1-106(1) provides that the Division of Professional Licensing (Division) may adopt and enforce rules to administer Title 58.
Subsection 58-1-202(1)(a) provides that the Utah State Board of Pharmacy's duties, functions and responsibilities include recommending to the director appropriate rules. This rule was enacted to clarify the provisions of Title 58, Chapter 17b, with respect to pharmacy-related matters/licensees.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

Since this rule was last reviewed in September 2019, the rule has been amended five times through proposed rule filings (January 9, 2020, November 10, 2020, March 11, 2021, January 27, 2022, and January 5, 2023).

The Division received the following written comments to a November 2022 proposed rule filing: a November 20, 2022 letter from Lorri Walmsley, R.Ph. with Walgreens commenting on the Division's proposed rule filing. The Division and Utah State Board of Pharmacy reviewed the written comment and proceeded with making the proposed rule amendments effective on January 5, 2023, with no further changes to the proposed rule filing.

The Division received the following written comments to a December 2021 proposed rule filing: January 13, 2022, written comment from Flavorx/Chad Baker in support of the proposed rule amendments; January 14, 2022, written comments with suggested changes from Michelle McOmber with Utah Medical Association. The Division and Utah State Board of Pharmacy reviewed the written comments and proceeded with a rule effective date of January 27, 2022, with no further changes being made to this filing.

The Division received the following written comments to an October 2020 proposed rule filing: October 19, 2020, letter from Walgreens in support of amendments with comments about flavoring medications and a suggested change to the compounding definition; October 27, 2020, letter from Telepharm in which they favorably commented about remote dispensing pharmacy amendments.

No other written comments have been received by the Division with respect to this rule.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule is necessary as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 17b. This rule also provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements, and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Mark B. Steinagel, Division Director	<b>Date:</b>	08/05/2024
---	--------------------------------------	--------------	------------

**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R277-114</b>	<b>Filing ID:</b>	<b>56286</b>
<b>Effective Date:</b>	<b>08/15/2024</b>		

**Agency Information**

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



**General Information**

<b>2. Rule catchline:</b>
R277-114. Response to Compliance and Related Issues
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
<p>This rule is authorized by the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board.</p> <p>Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.</p> <p>Subsection 53E-3-401(8), which allows the Board to make rules setting forth the procedures to be followed for enforcing Board rules.</p> <p>Section 53F-1-104, which requires the Board to monitor state-funded education programs and the expenditure of state funds in accordance with certain statutory provisions.</p> <p>Section 53E-3-301, which requires the Superintendent to administer programs assigned to the state board in accordance with the policies and the standards established by the state board and investigate matters pertaining to public schools.</p>
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
There were no public comments received.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule is necessary because it provides procedures for responses to compliance and related issues, including corrective action and related appeals procedures. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	08/15/2024
---	--	--------------	------------

**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R277-473</b>	<b>Filing ID:</b> 56371
<b>Effective Date:</b>	<b>08/15/2024</b>	

**Agency Information**

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

**General Information**

<b>2. Rule catchline:</b>
R277-473. Utah Computer Science Grant
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is authorized by the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board.  Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.  Subsection 63N-12-506(5) which allows the Board, in consultation with the Talent Ready Utah Board, to make rules outlining a grant recipient's reporting requirements.  Subsection 63N-12-506(7) which allows the Board to make rules outlining additional requirements for a grant recipient to include in the grant recipient's computer science grant plan.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
There were no public comments received.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule is necessary because it outlines the reporting requirements for a grant recipient and the additional criteria required for a grant recipient to include in the grant recipient's computer science grant plan. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	08/15/2024
---	--	--------------	------------

**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R277-929</b>	<b>Filing ID: 56525</b>
<b>Effective Date:</b>	<b>08/15/2024</b>	

**Agency Information**

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

**General Information**

<b>2. Rule catchline:</b>
R277-929. State Council on Military Children

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

This rule is authorized by the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board.

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

Section 53E-3-920.1, which requires the Board to create a state council in accordance with the Interstate Compact on Educational Opportunity for Military Children.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

There were no public comments received.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule is necessary because it establishes a state council for military children and establishes a purple star schools designation for Utah schools meeting eligibility criteria. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	08/15/2024
---	--	--------------	------------

**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R386-80</b>	<b>Filing ID:</b>	<b>55925</b>
<b>Effective Date:</b>	<b>08/12/2024</b>		

**Agency Information**

<b>1. Title catchline:</b>	Health and Human Services, Population Health, Environmental Epidemiology		
<b>Building:</b>	Cannon Health Building		
<b>Street address:</b>	288 N 1460 W		
<b>City, state</b>	Salt Lake City, UT		
<b>Mailing address:</b>	PO Box 142102		
<b>City, state and zip:</b>	Salt Lake City, UT 84114-2102		
<b>Contact persons:</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Janae Duncan	801-538-6191	janaeduncan@utah.gov	
Mariah Noble	385-214-1150	mariahnoble@utah.gov	
<b>Please address questions regarding information on this notice to the persons listed above.</b>			

**General Information**

<b>2. Rule catchline:</b>
R386-80. Local Public Health Emergency Funding Protocols
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is authorized by Section 26B-7-111, which authorizes the department to establish a local health emergency assistance program, to the extent that appropriated legislative funds or other funding allows, and to establish by rule other provisions necessary or advisable to implement the program.

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

**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 written comments in support of or opposition to 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:**

As the Public Health Emergency Funding Program continues to exist, this rule, providing oversight required by statute to specify program details and expectations, is still necessary. Therefore, this rule should be continued.

As the Department has not received any comments in opposition to this rule, it did not respond to any such comments.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	08/12/2024
---	-------------------------------------	--------------	------------

**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R414-71</b>	<b>Filing ID: 55964</b>
<b>Effective Date:</b>	<b>08/12/2024</b>	

**Agency Information**

<b>1. Title catchline:</b>	Health and Human Services, Integrated Healthcare	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state</b>	Salt Lake City, UT	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule catchline:</b>
R414-71. Early and Periodic Screening, Diagnostic, and Treatment Program
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 26B-3-108 requires the Department of Health and Human Services (Department) to implement Medicaid through administrative rules.
Section 26B-1-213 grants the Department the authority to to adopt, amend, or rescind these rules.
Additionally, 42 CFR 440.130 authorizes preventive services for Medicaid members.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
The Department has not received any written comments in support of or opposition to 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 provides program oversight for preventive, diagnostic, and treatment services for Medicaid members through 20 years of age. Therefore, this rule should be continued.

As there were no comments in opposition to this rule, the Department did not respond to any such comments.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	08/12/2024
---	-------------------------------------	--------------	------------

**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R414-312</b>	<b>Filing ID:</b>	<b>56107</b>
<b>Effective Date:</b>	<b>08/12/2024</b>		

**Agency Information**

<b>1. Title catchline:</b>	Health and Human Services, Integrated Healthcare		
<b>Building:</b>	Cannon Health Building		
<b>Street address:</b>	288 N 1460 W		
<b>City, state</b>	Salt Lake City, UT		
<b>Mailing address:</b>	288 N 1460 W		
<b>City, state and zip:</b>	Salt Lake City, UT 84114-3325		
<b>Contact persons:</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov	
Mariah Noble	385-214-1150	mariahnoble@utah.gov	
<b>Please address questions regarding information on this notice to the persons listed above.</b>			

**General Information**

<b>2. Rule catchline:</b>
R414-312. Adult Expansion Medicaid
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 26B-3-108 requires the Department of Health and Human Services (Department) to implement Medicaid through administrative rules.
Section 26B-1-213 grants the Department the authority to adopt, amend, or rescind these rules.
Additionally, 42 CFR 440.130 authorizes preventive services for Medicaid members.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
The Department has not received any written comments in support of or opposition to this rule since its last five-year review.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule is necessary because it establishes eligibility requirements for enrollment in the Adult Expansion Medicaid program. Therefore, this rule should be continued.

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

As there were no comments in opposition to this rule, the Department did not respond to any such comments.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	08/12/2024
---	-------------------------------------	--------------	------------

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
<b>Rule Number:</b>	<b>R527-40</b>	<b>Filing ID: 55556</b>
<b>Effective Date:</b>	<b>08/12/2024</b>	

**Agency Information**

<b>1. Title catchline:</b>	Health and Human Services, Recovery Services	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S 2700 W	
<b>City, state</b>	Taylorsville, UT	
<b>Mailing address:</b>	PO Box 45033	
<b>City, state and zip:</b>	Salt Lake City, UT 84145-0033	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jodi Witte	801-741-7417	jwitte@utah.gov
Casey Cole	801-741-7523	cacole@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule catchline:</b>
R527-40. Retained Support
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Sections 26B-1-202 and 26B-9-108 give the Office of Recovery Services (ORS) the authority to adopt, amend and enforce rules necessary to carry out its responsibilities.
Under Section 26B-9-212, an obligee whose rights have been assigned must immediately deliver payments received by the obligor directly to ORS. If an obligee fails to follow these procedures, ORS may recover the assigned support that has been inappropriately retained by the obligee pursuant to Section 26B-9-213.
This rule was adopted to provide a clear definition of "retained support" and to explain when the \$50 pass-through payment would be appropriate for credit on support payments that were retained by the obligee.
Section 26B-9-205 authorizes ORS to direct an obligor or other payor to change the payee of support to ORS if there has been an assignment of rights, upon providing notice to the obligor and obligee.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
The Department of Health and Human Services 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 necessary because the laws and policies dealing with retained support are still in effect and the rule gives essential clarification, procedures, and explanation relating to the laws and policies. Recovery of assigned support is essential to reimburse the state for funds spent on the family. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tracy S. Gruber, Executive Director	<b>Date:</b>	08/12/2024
---	-------------------------------------	--------------	------------

**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R590-67</b>	<b>Filing ID: 55334</b>
<b>Effective Date:</b>	<b>08/09/2024</b>	

**Agency Information**

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

**General Information**

<b>2. Rule catchline:</b>
R590-67. Proxy, Consent, and Authorization of a Domestic Stock Insurer
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
The Department of Insurance has received no written comments regarding this rule during the past five years.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
Many insurance companies in Utah are stock insurance companies. Stockholders in an insurance company have various rights, which may be assigned to another person via a proxy statement.  This rule provides guidance as to the form and content of proxy solicitation made to insurance stockholders. Without this rule, there may be instances where individuals unfairly or covertly obtain a proxy to act on behalf of a stockholder without the stockholder's full or complete knowledge of what is happening. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	08/09/2024
---	---	--------------	------------

**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R590-79</b>	<b>Filing ID:</b>	<b>53998</b>
<b>Effective Date:</b>	<b>08/09/2024</b>		

**Agency Information**

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

**General Information**

<b>2. Rule catchline:</b>
R590-79. Life Insurance Disclosure Rule
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code.  Section 31A-22-425 authorizes the insurance commissioner to make rules to establish standards for buyers' guides and disclosures.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
The Department of Insurance has received no written comments regarding this rule during the past five years.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule requires insurers to deliver information to purchasers of life insurance that will improve the purchaser's ability to select a life insurance policy that is most appropriate for them.  This rule requires disclosure of basic life policy features specified in Title 31A, Chapter 22, Part 4, and specifies the format for disclosure. The disclosure informs and assists consumers in understanding the policy they purchase. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	08/09/2024
---	---	--------------	------------



NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	R590-83	Filing ID: 53999
Effective Date:	08/09/2024	

**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:	R590-83. Unfair Discrimination on the Basis of Gender or Marital Status	
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:	<p>Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code.</p> <p>Section 31A-23a-402 authorizes the insurance commissioner to define by rule, after a finding of fact, any marketing practices that are unfair, deceptive, discriminatory, etc.</p> <p>This rule prohibits discrimination in all new and renewal insurance contracts based solely on sex or marital status.</p>	
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:	<p>The Department of Insurance received one written comment when the rule was amended in 2021. An employee of the Department recommended language edits to make two provisions of the rule less wordy, if we received similar comments from the industry or public. We did not, and so determined the change could be made in a future amendment.</p>	
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:	<p>This rule provides important protection to consumers and allows the Insurance Department to regulate against unfair and discriminatory transactions between insurers and consumers. Not having this rule could give the impression that the Department is not concerned about unfair discrimination based on sex and marital status. Therefore, this rule should be continued.</p>	

**Agency Authorization Information**

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	08/09/2024
------------------------------------	---	-------	------------

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	R590-127	Filing ID: 53879
Effective Date:	08/09/2024	

**Agency Information**

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

**General Information**

<b>2. Rule catchline:</b>
R590-127. Rate Filing Exemptions
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code.  Section 31A-19a-103 authorizes the insurance commissioner to exempt a person, a class of persons, or a market segment from Title 31A, Chapter 19a. This rule exempts (a) rates, the process of developing (a) rates, special risk rating, commercial excess, and umbrella liability insurance from the rate filing requirements in Section 31A-19a-203.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
The Department of Insurance has received no written comments regarding this rule during the past five years.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
There are four key reasons for continuing this rule: 1) it clarifies Title 31A, Chapter 19a; 2) it exempts certain lines of insurance from filing rates; 3) it puts a limitation on scheduled rating plans; and 4) it provides definitions for (a) rates, excess insurance, individual risk filing, self-insured retention, and umbrella liability insurance. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	08/09/2024
---	---	--------------	------------

**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R590-129</b>	<b>Filing ID:</b> 53880
<b>Effective Date:</b>	<b>08/09/2024</b>	

**Agency Information**

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

<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Gooch	801-957-9322	sgooch@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule catchline:</b>
R590-129. Unfair Discrimination Based Solely Upon Blindness or Physical or Mental Impairment
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Subsection 31A-2-201(3) authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code.  Subsection 31A-23a-402(8) authorizes the insurance commissioner to define by rule, after a finding of fact, any marketing practices that are unfair, deceptive, discriminatory, etc.  This rule prohibits discrimination based on blindness, or physical or mental impairment in all new and renewal insurance contracts.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
The Department of Insurance has received no written comments regarding this rule during the past five years.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule provides important protection for consumers and insurers and allows the Insurance Department to regulate against unfair and discriminatory transactions between insurers and consumers. Not having this rule could give the impression that the Insurance Department does not care about unfair discrimination based on blindness, or physical or mental impairments. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	08/09/2024
---	---	--------------	------------

**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R590-167</b>	<b>Filing ID:</b> 56266
<b>Effective Date:</b>	<b>08/09/2024</b>	

**Agency Information**

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

**General Information**

<b>2. Rule catchline:</b>
R590-167. Individual, Small Employer, and Group Health Benefit Plan Rule
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
<p>Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code.</p> <p>Section 31A-2-212 authorizes the insurance commissioner to require an insurer offering health insurance coverage in Utah to comply with PPACA and administrative rules related to the regulation of health benefit plans.</p> <p>Section 31A-30-104 authorizes the insurance commissioner to make rules regarding marketing practices for small employer carriers, small employer carriers' agents, insurance producers, insurance consultants, and navigators.</p> <p>Section 31A-30-106 authorizes the insurance commissioner to revise rules written for Sections 31A-22-602 and 31A-22-605 regarding individual accident and health policy rates that allow rating in accordance with Section 31A-30-106.</p> <p>Section 31A-30-106.1 authorizes the insurance commissioner to give direction in the rating of new health benefit plans into which new enrollees are enrolling.</p> <p>Section 31A-30-117 authorizes the insurance commissioner to write rules to meet federal qualified health plan standards and rating practices under PPACA.</p>
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
The Department of Insurance has received no written comments regarding this rule during the past five years.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule is a valuable consumer protection. It regulates and prevents abuse in insurer rating practices, assures that consumers receive credit for previous coverage, and limits the use of restrictive riders. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	08/09/2024
---	---	--------------	------------

**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R590-194</b>	<b>Filing ID: 55089</b>
<b>Effective Date:</b>	<b>08/09/2024</b>	

**Agency Information**

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

**General Information**

<b>2. Rule catchline:</b>
R590-194. Coverage of Dietary Products for Inborn Errors of Amino Acid or Urea Cycle Metabolism
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code.  Section 31A-22-623 authorizes the insurance commissioner to set minimum standards by rule for coverage of dietary products for inborn errors of amino acid or urea cycle metabolism.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
The Department of Insurance has received no written comments regarding this rule during the past five years.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule provides the identification of a uniform billing code standard to be used by health insurers to expedite the processing of claims covering dietary formulas in conjunction with the treatment of these specific inborn metabolic errors. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	08/09/2024
---	---	--------------	------------

**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R590-229</b>	<b>Filing ID: 55232</b>
<b>Effective Date:</b>	<b>08/09/2024</b>	

**Agency Information**

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

**General Information**

<b>2. Rule catchline:</b>
R590-229. Annuity Disclosure
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code.

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Section 31A-22-425 authorizes the Insurance Commissioner to make rules to establish standards for annuity buyers' guides and disclosures.

**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 provides standards for the disclosure of information about annuity contracts to protect consumers by specifying the minimum information to be disclosed, and the method for disclosing it in connection with the sale of an annuity contract. This rule also fosters consumer education by ensuring that consumers understand certain basic features of annuity contracts. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	08/09/2024
---	---	--------------	------------

**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R590-277</b>	<b>Filing ID: 52585</b>
<b>Effective Date:</b>	<b>08/09/2024</b>	

**Agency Information**

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

**General Information**

<b>2. Rule catchline:</b>
R590-277. Managed Care Health Benefit Plan Policy Standards
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Some provisions set forth in Section R590-277-1 are outdated. The correct authorizing provisions are enumerated below, and will be amended into the rule in a near-future rule filing.
Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code.
Section 31A-2-201.1 authorizes the insurance commissioner to set requirements for the filing of forms, rates, reports, and binders for a health benefit plan or dental policy.
Section 31A-22-623 authorizes the insurance commissioner to establish minimum standards of coverage for dietary products used for the treatment of inborn errors of amino acid or urea cycle metabolism in accident and health insurance policies.

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Section 31A-22-626 authorizes the insurance commissioner to establish minimum standards of coverage for diabetes in accident and health insurance policies.

Section 31A-45-103 authorizes the insurance commissioner to adopt rules relating to standards for managed care contract policy provisions and disclosures.

**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 offers significant consumer protections to those who purchase a managed care health benefit plan. It standardizes and simplifies the terms and coverage of a managed care health benefit plan, prohibits the use of misleading or confusing provisions, and requires the disclosure of certain important information to the consumer. Without this rule, consumers would not have these protections. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	08/09/2024
---	---	--------------	------------

**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R671-103</b>	<b>Filing ID: 51805</b>
<b>Effective Date:</b>	<b>08/02/2024</b>	

**Agency Information**

<b>1. Title catchline:</b>	Pardons (Board of), Administration	
<b>Street address:</b>	448 E Winchester St. #300	
<b>City, state</b>	Murray, UT 84107	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jennifer Yim	801-261-6464	jmyim@agutah.gov
Amanda Montague	801-440-0545	amontague@agutah.gov
Zarah Borja	385-910-3215	zborja@agutah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule catchline:</b>
R671-103. Attorneys
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This addresses Section 78A-9-103, practicing law without a license. This rule identifies when an appearance in front of the Board constitutes the practice of law.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments have been received during and since the last five-year review.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule is still relevant as it governments attorney appearances before the Board at its many different types of hearings. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	J. Scott Stephenson, Chair	<b>Date:</b>	08/01/2024
---	----------------------------	--------------	------------

**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R671-309</b>	<b>Filing ID: 51825</b>
<b>Effective Date:</b>	<b>08/07/2024</b>	

**Agency Information**

<b>1. Title catchline:</b>	Pardons (Board of), Administration		
<b>Street address:</b>	448 E Winchester St. #300		
<b>City, state</b>	Murray, UT 84107		
<b>Contact persons:</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Jennifer Yim	801-261-6464	jmyim@agutah.gov	
Amanda Montague	801-440-0545	amontague@agutah.gov	
Zarah Borja	385-910-3215	zborja@agutah.gov	
<b>Please address questions regarding information on this notice to the persons listed above.</b>			

**General Information**

<b>2. Rule catchline:</b>
R671-309. Impartial Hearings
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is enacted pursuant to Subsection 63G-3-201(3), which authorizes rulemaking when the agency issues a written interpretation of a state or federal mandate.
In numerous state cases, including Padilla v. Utah Board of Pardons, 839 P.2d 874 (Utah App. 1992), the courts have determined that parties are entitled to impartial decision-makers.
This rule identifies how the Board will ensure impartiality in the proceedings.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
There have been no written comments received during and since the last five-year review.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule is necessary because it outlines for the public the Board's commitment to impartial hearings and how it aims to accomplish that goal in terms of ex parte contact and recusals. Therefore, this rule should be continued.



**Agency Authorization Information**

<b>Agency head or designee and title:</b>	J. Scott Stephenson, Chair	<b>Date:</b>	08/02/2024
---	----------------------------	--------------	------------

**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R714-500</b>	<b>Filing ID:</b>	<b>51927</b>
<b>Effective Date:</b>	<b>08/05/2024</b>		

**Agency Information**

<b>1. Title catchline:</b>	Public Safety, Highway Patrol		
<b>Building:</b>	Calvin Rampton Complex		
<b>Street address:</b>	4501 S 2700 W		
<b>City, state</b>	Salt Lake City, UT 84119-5994		
<b>Mailing address:</b>	PO Box 141100		
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1100		
<b>Contact persons:</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Kim Gibb	801-556-8198	kgibb@utah.gov	
<b>Please address questions regarding information on this notice to the persons listed above.</b>			

**General Information**

<b>2. Rule catchline:</b>	R714-500. Chemical Analysis Standards and Training
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>	This rule is authorized by Section 41-6a-515 which requires the Commissioner of the Department of Public Safety to establish standards for the administration and interpretation of chemical analysis of a person's breath, including standards of training.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>	The Department of Public Safety has not received any comments since the last five year review of this rule.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>	This rule is required under Section 41-6a-515 and is necessary to outline standards and requirements for the administration and interpretation of chemical analysis of a person's breath, including standards of training. This rule outlines standards and procedures for program and instrument certification; operator, technician and program supervisor certification; suspension and revocation of certifications and adjudicative procedures; and requirements and standards for breath alcohol concentration test analytical results. Therefore, this rule should be continued..

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Michael Rapich, Colonel Utah Highway Patrol	<b>Date:</b>	08/05/2024
---	---	--------------	------------

**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R728-205</b>	<b>Filing ID:</b>	<b>51945</b>
<b>Effective Date:</b>	<b>08/07/2024</b>		

**Agency Information**

<b>1. Title catchline:</b>	Public Safety, Peace Officer Standards and Training	
<b>Mailing address:</b>	410 W 9800 S	
<b>City, state and zip:</b>	Sandy, UT 84070	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Marcus Yockey	801-965-4275	myockey@agutah.gov
Kim Gibb	801-556-8198	kgibb@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule catchline:</b>
R728-205. Council Resolution of Public Safety Retirement Eligibility
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
<p>This rule is authorized under Subsections 49-14-201(4) and 49-15-201(7) and Title 63G, Chapter 4, administrative Procedures Act.</p> <p>Subsections 49-14-201(4) and 49-15-201(5) require the Peace Officer Standards and Training (POST) Council to resolve disputes between the retirement office and a participating employer or employee over any position to be covered, and Subsections 49-14-201(4) and 49-15-201(7) requires that the POST Council comply with Title 63G, Chapter 4, Administrative Procedures Act in resolving coverage disputes in the public safety contributory retirement system and the public safety noncontributory retirement system.</p> <p>Rulemaking is authorized under Section 63G-4-203 to prescribe procedures for informal adjudicative proceedings.</p> <p>This rule contains inaccurate statutory references, and the formatting needs to be updated, both of which will be resolved after the five-year review is completed.</p>
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments were received during and since the last five-year review of this rule.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
<p>This rule is authorized under Subsections 49-14-201(4) and 49-15-201(7) and Title 63G, Chapter 4, Administrative Procedures Act, and is necessary to outline the procedures for the POST Council to resolve disputes between the retirement office and a participating employer or employee over any position to be covered under either the public safety contributory retirement system or the public safety noncontributory retirement system; Therefore, this rule should be continued.</p> <p>This rule contains inaccurate statutory references, and the formatting needs to be updated, both of which will be resolved after the 5-year review is completed.</p>

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Travis Rees, POST Director	<b>Date:</b>	08/07/2024
---	----------------------------	--------------	------------

**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	R784-2	<b>Filing ID:</b>	53694
<b>Effective Date:</b>	08/15/2024		

**Agency Information**

<b>1. Title catchline:</b>	Higher Education (Utah Board of), Salt Lake Community College	
<b>Building:</b>	AAB	
<b>Street address:</b>	4600 S Redwood Road	
<b>City, state</b>	Taylorsville, UT	
<b>Mailing address:</b>	PO Box 30808	
<b>City, state and zip:</b>	Salt Lake City, UT 84130	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jen Hughes	801-957-4637	Jen.hughes@slcc.edu
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule catchline:</b>
R784-2. Free Expression on Campus
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 53B-27-302 permits institutions of higher education to make and amend rules that directly affect students' civil liberties in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.  Section 53B-27-203 permits institutions to maintain and enforce reasonable time, place, or manner restrictions on an expressive activity.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
Salt Lake Community College has not received any written comments since the last five-year review either in support of or opposition to this rule.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule is justified because Salt Lake Community College is an institution of higher education subject to the Student Civil Liberties Protection Act and the Campus Free Expressions Act. Therefore, this rule should be continued.  As there were no comments received regarding this rule, no disagreements were made.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Chris Lacombe, General Counsel	<b>Date:</b>	08/15/2024
---	--------------------------------	--------------	------------

**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R784-3</b>	<b>Filing ID:</b>	<b>53695</b>
<b>Effective Date:</b>	<b>08/15/2024</b>		

**Agency Information**

<b>1. Title catchline:</b>	Higher Education (Utah Board of), Salt Lake Community College	
<b>Building:</b>	AAB	
<b>Street address:</b>	4600 S Redwood Road	
<b>City, state</b>	Taylorsville, UT	

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

<b>Mailing address:</b>	PO Box 30808	
<b>City, state and zip:</b>	Salt Lake City, UT 84130	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jen Hughes	801-957-4637	Jen.hughes@slcc.edu
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule catchline:</b>
R784-3. Weapons on Campus
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 53B-27-302 permits institutions of higher education to make and amend rules that directly affect students' civil liberties in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
Salt Lake Community College has not received any written comments since the last five-year review either in support of or opposition to this rule.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule is justified because Salt Lake Community College is an institution of higher education subject to the Student Civil Liberties Protection Act. Therefore, this rule should be continued.  As there were no comments received regarding this rule, no disagreements were made.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Chris Lacombe, General Counsel	<b>Date:</b>	08/14/2024
---	--------------------------------	--------------	------------

**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R784-4</b>	<b>Filing ID:</b> 53696
<b>Effective Date:</b>	<b>08/15/2024</b>	

**Agency Information**

<b>1. Title catchline:</b>	Higher Education (Utah Board of), Salt Lake Community College	
<b>Building:</b>	AAB	
<b>Street address:</b>	4600 S Redwood Road	
<b>City, state</b>	Taylorsville, UT	
<b>Mailing address:</b>	PO Box 30808	
<b>City, state and zip:</b>	Salt Lake City, UT 84130	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jen Hughes	801-957-4637	jen.hughes@slcc.edu
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule catchline:</b>
R784-4. Student Due Process
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 53B-27-302 permits institutions of higher education to make and amend rules that directly affect students' civil liberties in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
Salt Lake Community College has not received any written comments since the last five-year review either in support of or opposition to this rule.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule is justified because Salt Lake Community College is an institution of higher education subject to the Student Civil Liberties Protection Act. Therefore, this rule should be continued.  As there were no comments received regarding this rule, no disagreements were made.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Chris Lacombe, General Counsel	<b>Date:</b>	08/14/2024
---	--------------------------------	--------------	------------

**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule Number:</b>	<b>R990-300</b>	<b>Filing ID: 56544</b>
<b>Effective Date:</b>	<b>08/15/2024</b>	

**Agency Information**

<b>1. Title catchline:</b>	Workforce Services, Housing and Community Development		
<b>Building:</b>	Olene Walker Building		
<b>Street address:</b>	140 E 300 S		
<b>City, state</b>	Salt Lake City, UT		
<b>Mailing address:</b>	PO Box 45244		
<b>City, state and zip:</b>	Salt Lake City, UT 84145-0244		
<b>Contact persons:</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Robert Andreasen	801-517-4722	randreasen@utah.gov	
<b>Please address questions regarding information on this notice to the persons listed above.</b>			

**General Information**

<b>2. Rule catchline:</b>
R990-300. Review Process for Plan for Moderate Income Housing Reports

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

Sections 10-9a-408 and 17-27a-408 require certain municipalities and counties to make reports to the Utah Department of Workforce Services (Department), Housing and Community Development Division (HCDD) regarding the moderate income housing element of a general plan.

Section 35A-8-803 requires the Department to make rules describing the review process for those reports.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

The Department received written comments concerning a rule amendment to Rule R990-300 regarding modifications enacted in H.B. 462, 2022 General Session, to the moderate income housing report requirements and the review of reports. The commenter requested the rule amendment reference a particular statutory subsection that contained a clear explanation of the reporting requirements. The commenter also requested additional guidance be included in the rule because, according to the commenter's interpretation, the statute did not clearly specify whether HCDD was authorized to determine if a municipality's efforts to cure a deficient report were satisfactory to comply with the statute, and whether HCDD was required to send a notice of the municipality's compliance to other state agencies.

The Department received written comments concerning a separate rule amendment to Rule R990-300 regarding modifications enacted in H.B. 364, S.B. 174, and S.B. 260, 2023 General Session, to the form of moderate income housing reports, the process for reviewing reports, creation of an appeal board, and penalties for noncompliance. The commenter expressed concern that the moderate income housing reporting process is ineffective and does nothing to address the cost of housing, which is beyond a municipality's ability to control. The commenter also stated the reporting requirement is unfair to municipalities that have already enacted moderate income housing strategies because the municipalities are unable to provide benchmarks demonstrating they are implementing those strategies.

**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 describes the moderate income housing report requirements HCDD will evaluate and the process for evaluating reports. Therefore, this rule should be continued.

Regarding the first above-identified comments, the Department considered the requested changes and elected to enact the rule amendment as published. The proposed rule amendment cited the correct statutory section, which clearly outlined the reporting requirements, and repeating those requirements or referencing a particular subsection in the rule was deemed unnecessary. The Department also declined to include the additional guidance as requested because the statute impliedly authorizes HCDD to determine when a municipality has cured a deficient report, and because the statute clearly identifies the notices HCDD must send to other state agencies.

Regarding the second above-identified comments, the Department considered the commenter's concerns with the statutory scheme and elected to enact the rule amendment as published. The commenter's concerns were with the moderate income housing program itself, not the rule or proposed amendment. The rule enables HCDD to fulfill its statutory duty to establish criteria for moderate income housing reports and to establish procedures for the review of those reports.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Casey Cameron, Executive Director	<b>Date:</b>	08/15/2024
---	-----------------------------------	--------------	------------

**End of the Five-Year Notices of Review and Statements of Continuation Section**

## NOTICES OF FIVE-YEAR EXPIRATIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). The Office of Administrative Rules (Office) is required to notify agencies of rules due for review at least 180 days prior to the anniversary date. If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a **NOTICE OF FIVE-YEAR EXTENSION (EXTENSION)** with the Office. However, if the agency fails to file either the **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION** or the **EXTENSION** by the date provide by the Office, the rule expires.

Upon expiration of the rule, the Office files a **NOTICE OF FIVE-YEAR EXPIRATION (EXPIRATION)** to document the action. The Office is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule and it must follow regular rulemaking procedures to replace the rule if it is still needed.

The Office has filed **EXPIRATIONS** for each of the rules listed below which were not reviewed in accordance with Section 63G-3-305. These rules have expired and have been removed from the *Utah Administrative Code*.

The expiration of administrative rules for failure to comply with the five-year review requirement is governed by Subsection 63G-3-305(8).

### NOTICE OF EXPIRED RULE

<b>Rule Number:</b>	R657-54	<b>Filing ID:</b> 55735
<b>Effective Date:</b>	08/06/2024	

### Agency Information

<b>1. Department, Agency:</b>	Natural Resources, Wildlife Resources	
<b>Street address:</b>	1594 W North Temple	
<b>City and state:</b>	Salt Lake City, UT	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Nancy L. Lancaster	801-957-7102	rulesonline@utah.gov

### General Information

<b>2. Title of rule (catchline):</b>	R657-54. Taking Wild Turkey	
<b>3. Summary:</b>	The five-year review and notice of continuation deadline was missed. This rule has expired and was removed from the Utah Administrative Code.  (EDITOR'S NOTE: A corresponding 120-day (emergency) rule that is numbered R657-54a is under ID 56703 and is effective 08/08/2024 to put the rule back in place, The filing is in this issue, September 1, 2024, of the Bulletin.)	

### NOTICE OF EXPIRED RULE

<b>Rule Number:</b>	R657-68	<b>Filing ID:</b> 55791
<b>Effective Date:</b>	08/06/2024	

**Agency Information**

<b>1. Department, Agency:</b>	Natural Resources, Wildlife Resources	
<b>Street address:</b>	1594 W North Temple	
<b>City and state:</b>	Salt Lake City, UT	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Nancy L. Lancaster	801-957-7102	rulesonline@utah.gov

**General Information**

<b>2. Title of rule (catchline):</b>
R657-68. Trial Hunting Authorization
<b>3. Summary:</b>
The five-year review and notice of continuation deadline was missed. This rule has expired and was removed from the Utah Administrative Code.  (EDITOR'S NOTE: A corresponding 120-day (emergency) rule that is numbered R657-68a is under ID 56704 and is effective 08/08/2024 to put the rule back in place, The filing is in this issue, September 1, 2024, of the Bulletin.)

**End of the Notices of Notices of Five-Year Expirations Section**



## NOTICES OF RULE EFFECTIVE DATES

---

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

**NOTICES OF EFFECTIVE DATE** are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

---

### Agriculture and Food

#### Animal Industry

No. 56605 (Repeal and Reenact) R58-18: Elk Farming

Published: 07/15/2024

Effective: 08/23/2024

No. 56607 (Repeal and Reenact) R58-20: Elk Ranches

Published: 07/15/2024

Effective: 08/23/2024

No. 56551 (Repeal and Reenact) R58-28: Veterinarian Education Loan Repayment Program

Published: 07/01/2024

Effective: 08/12/2024

#### Conservation Commission

No. 56549 (Amendment) R64-4: Agricultural Water Optimization Program

Published: 07/01/2024

Effective: 08/12/2024

#### Medical Cannabis and Industrial Hemp

No. 56583 (New Rule) R66-37: Industrial Hemp Research

Published: 07/01/2024

Effective: 08/12/2024

#### Plant Industry

No. 56582 (Repeal) R68-22: Industrial Hemp Research

Published: 07/01/2024

Effective: 08/12/2024

No. 56503 (Repeal) R68-30: Independent Cannabis Testing Laboratory

Published: 06/01/2024

Effective: 07/31/2024

#### Regulatory Services

No. 56529 (Amendment) R70-530: Food Protection

Published: 06/15/2024

Effective: 07/31/2024

No. 56560 (Repeal and Reenact) R70-910: Registration of Servicepersons for Commercial Weighing and Measuring Devices

Published: 07/01/2024

Effective: 08/12/2024

NOTICES OF RULE EFFECTIVE DATES

No. 56559 (Repeal) R70-920: Packaging and Labeling of Commodities  
Published: 07/01/2024  
Effective: 08/12/2024

No. 56558 (Repeal) R70-930: Method of Sale of Commodities  
Published: 07/01/2024  
Effective: 08/12/2024

No. 56557 (Repeal) R70-950: Uniform National Type Evaluation  
Published: 07/01/2024  
Effective: 08/12/2024

Commerce

Administration

No. 56584 (Amendment) R151-1: Electronic Meetings  
Published: 07/01/2024  
Effective: 08/12/2024

Education

Administration

No. 56562 (Amendment) R277-113: LEA Fiscal and Auditing Policies  
Published: 07/01/2024  
Effective: 08/07/2024

No. 56563 (Repeal) R277-126: Utah Fits All Scholarship  
Published: 07/01/2024  
Effective: 08/07/2024

No. 56565 (Amendment) R277-322: LEA Codes of Conduct  
Published: 07/01/2024  
Effective: 08/07/2024

No. 56566 (Amendment) R277-326: Early Learning  
Published: 07/01/2024  
Effective: 08/07/2024

No. 56568 (New Rule) R277-332: Teacher Retention Pilot Program  
Published: 07/01/2024  
Effective: 08/07/2024

No. 56569 (Amendment) R277-407: School Fees  
Published: 07/01/2024  
Effective: 08/07/2024

No. 56570 (New Rule) R277-408: School Fundraising  
Published: 07/01/2024  
Effective: 08/07/2024

No. 56571 (Amendment) R277-436: Gang Prevention and Intervention Programs in the Schools  
Published: 07/01/2024  
Effective: 08/07/2024

No. 56572 (Amendment) R277-459: Teacher Supplies and Materials Appropriation  
Published: 07/01/2024  
Effective: 08/07/2024

No. 56573 (Amendment) R277-475: Patriotic, Civic, and Character Education  
Published: 07/01/2024  
Effective: 08/07/2024

No. 56574 (Amendment) R277-484: Data Standards  
 Published: 07/01/2024  
 Effective: 08/07/2024

No. 56575 (Amendment) R277-628: School Libraries  
 Published: 07/01/2024  
 Effective: 08/07/2024

No. 56576 (Amendment) R277-629: Paid Professional Hours for Educators  
 Published: 07/01/2024  
 Effective: 08/07/2024

No. 56577 (Repeal) R277-710: Intergenerational Poverty Interventions in Public Schools  
 Published: 07/01/2024  
 Effective: 08/07/2024

No. 56578 (Amendment) R277-726: Statewide Online Education Program  
 Published: 07/01/2024  
 Effective: 08/07/2024

No. 56579 (New Rule) R277-730: Kindergarten Programs  
 Published: 07/01/2024  
 Effective: 08/07/2024

No. 56580 (Amendment) R277-800: Utah Schools for the Deaf and the Blind  
 Published: 07/01/2024  
 Effective: 08/07/2024

No. 56581 (Amendment) R277-926: Certification of Residential Treatment Center Special Education Program  
 Published: 07/01/2024  
 Effective: 08/07/2024

#### Environmental Quality

##### Water Quality

No. 56312 (New Rule) R317-16: Great Salt Lake Mineral Extraction Facility Operator Certification Approval  
 Published: 02/15/2024  
 Effective: 08/28/2024

No. 56312 (Change in Proposed Rule) R317-16: Great Salt Lake Mineral Extraction Facility Operator Certification Approval  
 Published: 05/15/2024  
 Effective: 08/28/2024

#### Governor

##### Economic Opportunity

No. 56545 (Amendment) R357-15: Enterprise Zone Tax Credit  
 Published: 07/01/2024  
 Effective: 08/07/2024

#### Insurance

##### Administration

No. 56552 (Repeal and Reenact) R590-146: Medicare Supplement Insurance Standards  
 Published: 07/01/2024  
 Effective: 08/07/2024

NOTICES OF RULE EFFECTIVE DATES

Labor Commission

Occupational Safety and Health

No. 56604 (Amendment) R614-1: Inspections, Citations, and Proposed Penalties

Published: 07/15/2024

Effective: 08/21/2024

Natural Resources

Oil, Gas and Mining; Oil and Gas

No. 56606 (New Rule) R649-12: Certification of Pollution Control Facility or Freestanding Pollution Control Property

Published: 07/15/2024

Effective: 08/28/2024

Wildlife Resources

No. 56602 (Amendment) R657-4: Possession and Release of Pen-reared Gamebirds

Published: 07/15/2024

Effective: 08/21/2024

No. 56596 (Amendment) R657-5: Taking Big Game

Published: 07/15/2024

Effective: 08/21/2024

No. 56597 (Amendment) R657-13: Taking Fish and Crayfish

Published: 07/15/2024

Effective: 08/21/2024

No. 56598 (Amendment) R657-14: Commercial Harvesting of Protected Aquatic Wildlife

Published: 07/15/2024

Effective: 08/21/2024

No. 56609 (Amendment) R657-37: Cooperative Wildlife Management Units for Big Game or Turkey

Published: 07/15/2024

Effective: 08/21/2024

No. 56599 (Amendment) R657-38: Dedicated Hunter Program

Published: 07/15/2024

Effective: 08/21/2024

No. 56610 (Amendment) R657-41: Conservation and Sportsman Permits

Published: 07/15/2024

Effective: 08/21/2024

No. 56600 (Amendment) R657-42: Fees, Exchanges, Surrenders, Refunds, and Reallocation of Wildlife Documents

Published: 07/15/2024

Effective: 08/21/2024

No. 56595 (Amendment) R657-43: Landowner Permits

Published: 07/15/2024

Effective: 08/21/2024

No. 56601 (Amendment) R657-44: Big Game Depredation

Published: 07/15/2024

Effective: 08/21/2024

Pardons (Board of)

Administration

No. 56407 (Amendment) R671-201: Original Hearing Schedule and Notice

Published: 05/15/2024

Effective: 08/14/2024

No. 56408 (Amendment) R671-312a: Commutation Procedures Applicable to Persons Sentence to Death On or Before April 26, 1992  
Published: 05/15/2024  
Effective: 08/14/2024

No. 56409 (Amendment) R671-312b: Commutation Procedures Applicable to Persons Sentenced to Death After April 26, 1992  
Published: 05/15/2024  
Effective: 08/14/2024

**End of the Notices of Rule Effective Dates Section**