

UTAH STATE BULLETIN

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

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

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

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

Office of Administrative Rules, Salt Lake City 84114

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NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between January 16, 2025, 12:00 a.m., and January 31, 2025, 11:59 p.m. are included in this, the February 15, 2025, issue of the *Utah State Bulletin*.

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

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 Rules being repealed are completely struck out.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

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least March 17, 2025. 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 June 15, 2025, 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: Repeal and Reenact

Rule or Section Number:

R68-15

Filing ID: 57034

Agency Information

1. Title catchline:	Agriculture and Food, Plant Industry	
Building:	Taylorsville State Office Buildings, South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state:	Taylorsville, UT	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	Phone:	Email:
Amber Brown	385-245-5222	Ambermbrown@Utah.gov
Kelly Pehrson	801-982-2200	Kwpehrson@Utah.gov
Rob Hougaard	801-982-2305	Rhougaard@Utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R68-15. Quarantine Pertaining to Japanese Beetle, <i>Popillia japonica</i>
3. Purpose of the new rule or reason for the change:
The Department of Agriculture and Food (Department) is proposing changes to Rule R68-15 primarily to align it with the Rulewriting Manual for Utah guidelines, as the rule was last updated in 2022. Additionally, the text needs the changes because there have been updates to quarantine information regarding the Japanese beetle and its potential impact on nursery stock in Utah. The Department also found that more than 50% of this rule would be changed, so it was filed as a repeal and reenact to ensure clarity.
4. Summary of the new rule or change:
The proposed changes to Rule R68-15 update the Japanese beetle quarantine, adding states to the list of quarantined areas and modifying definitions to include terms like "Phytosanitary certificate" and "Regulated Article". The revised rule specifies that the Department may consider any life stage of the beetle and related transport items as potential carriers and includes exemptions for treated or soil-free articles. The updated restrictions mandate a phytosanitary certificate or compliance agreement before entry, require notification before shipment, and outline specific certification requirements for treatments such as drenching and media incorporation. Additionally, the new rule establishes compliance agreements, procedures for shipping from non-infested counties with specific requirements and details the Department's response to violations.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The proposed changes are not expected to impact the state budget because the core requirements of this rule regarding the Japanese beetle quarantine are not changing.

B) Local governments:			
The proposed changes are not expected to impact local governments because the core requirements of this rule regarding the Japanese beetle quarantine are not changing and a local government does not administer the program.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
The proposed changes are not expected to impact small businesses' because the core requirements of this rule regarding the Japanese beetle quarantine are not changing.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
The proposed changes are not expected to impact non-small businesses' because the core requirements of this rule regarding the Japanese beetle quarantine are not changing.			
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):			
The proposed changes are not expected to impact other persons because the core requirements of this rule regarding the Japanese beetle quarantine are not changing.			
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):			
The proposed changes are not expected to impact compliance costs because the core requirements of this rule regarding the Japanese beetle quarantine are not changing.			
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
Regulatory Impact Table			
Fiscal Cost	FY2025	FY2026	FY2027
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2025	FY2026	FY2027
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Commissioner of the Department of Agriculture and Food, Craig Buttars, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Subsection 4-2-103(1)(i)	Section 4-35-109	

Public Notice Information

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

A) Comments will be accepted until:	03/17/2025
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9. This rule change MAY become effective on:	03/24/2025
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Craig Buttars, Commissioner	Date:	01/31/2025
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R68. Agriculture and Food, Plant Industry.

R68-15. Quarantine Pertaining to Japanese Beetle, *Popillia japonica*.

~~R68-15-1. Purpose and Authority.~~

- ~~(1) Promulgated under authority of Subsection 4-2-103(1)(k) and Section 4-35-109.~~
- ~~(2) Refer to the Notice of Quarantine, Japanese beetle, *Popillia japonica*, effective January 4, 1993, issued by the Utah Department of Agriculture and Food.~~
- ~~(3) This rule establishes a quarantine pertaining to the Japanese beetle, *Popillia japonica*, lists areas, articles, and commodities under quarantine, and lists restrictions applied under this rule.~~

~~R68-15-2. Definitions.~~

- ~~(1) "Commissioner" means the Commissioner of the Utah Department of Agriculture and Food, or the commissioner's designee.~~
- ~~(2) "Department" means the Utah Department of Agriculture and Food.~~
- ~~(3) "Free From Soil" means soil in amounts that could not contain hidden Japanese beetle larvae or pupae.~~
- ~~(4) "Restricted Article" means those named in Section R68-15-5.~~

~~R68-15-3. Pest.~~

~~The Japanese beetle, *Popillia japonica*, a beetle, family Scarabaeidae, which in the larval state attacks the roots of many plants and as an adult attacks the leaves and fruits of many plants.~~

~~R68-15-4. Areas Under Quarantine.~~

- ~~(1) To prohibit the entry of Japanese beetle into Utah through the sale of plants and plant products a general quarantine is placed upon:~~
 - ~~(a) the entire states of:~~
 - ~~(i) Alabama;~~
 - ~~(ii) Arkansas;~~
 - ~~(iii) Colorado;~~
 - ~~(iv) Connecticut;~~
 - ~~(v) Delaware;~~
 - ~~(vi) Georgia;~~
 - ~~(vii) Illinois;~~
 - ~~(viii) Indiana;~~
 - ~~(ix) Iowa;~~
 - ~~(x) Kansas;~~
 - ~~(xi) Kentucky;~~
 - ~~(xii) Maine;~~
 - ~~(xiii) Maryland;~~
 - ~~(xiv) Massachusetts;~~
 - ~~(xv) Michigan;~~
 - ~~(xvi) Minnesota;~~
 - ~~(xvii) Missouri;~~
 - ~~(xviii) Nebraska;~~
 - ~~(xix) New Hampshire;~~
 - ~~(xx) New Jersey;~~
 - ~~(xxi) New Mexico;~~
 - ~~(xxii) New York;~~
 - ~~(xxiii) North Carolina;~~
 - ~~(xxiv) Ohio;~~
 - ~~(xxv) Oklahoma;~~

- ~~_____ (xxvi) Pennsylvania;~~
- ~~_____ (xxvii) Rhode Island;~~
- ~~_____ (xxviii) South Carolina;~~
- ~~_____ (xxix) Tennessee;~~
- ~~_____ (xxx) Texas;~~
- ~~_____ (xxxi) Vermont;~~
- ~~_____ (xxxii) Virginia;~~
- ~~_____ (xxxiii) West Virginia;~~
- ~~_____ (xxxiv) Wisconsin; and~~
- ~~_____ (xxxv) the District of Columbia.~~
- ~~_____ (2) The same general quarantine shall apply to the entire Canadian provinces of:~~
 - ~~_____ (a) New Brunswick;~~
 - ~~_____ (b) Nova Scotia;~~
 - ~~_____ (c) Ontario;~~
 - ~~_____ (d) Prince Edward Island; and~~
 - ~~_____ (e) Quebec.~~
- ~~_____ (3) Any areas not mentioned in Subsections R68-15-4(1) and (2) where Japanese beetle has been found or known to occur, shall also be placed under general quarantine.~~

~~R68-15-5. Articles and Commodities Under Quarantine.~~

- ~~_____ (1) The following are considered to be hosts and possible carriers of each stage of the Japanese beetle:~~
 - ~~_____ (a) soil, humus, compost and manure, except when commercially packaged and treated;~~
 - ~~_____ (b) any plants with roots, except bareroot plants free from soil;~~
 - ~~_____ (c) grass sod;~~
 - ~~_____ (d) plant, crowns, or roots for propagation, except when free from soil;~~
 - ~~_____ (e) bulbs, corms, tubers, and rhizomes of ornamental plants, except when free from soil; and~~
 - ~~_____ (f) any other plant, plant part, article, or means of conveyance when it is determined by a Utah State Plant Quarantine Officer to present a hazard of spreading live Japanese beetle due to infestation or exposure to infestation by Japanese beetle.~~
 - ~~_____ (i) Packing material added to bareroot plants after harvesting may not normally pose a pest risk. However, at the inspector's discretion, packing material may be covered under Subsection R68-15-4(1)(f).~~

~~R68-15-6. Restrictions.~~

- ~~_____ (1) Restricted articles are prohibited entry into Utah from areas under quarantine unless they have the required certification.~~
- ~~_____ (2) Plants may be shipped from the area under quarantine into Utah if shipments conform to this rule and are accompanied by a certificate issued by the origin state.~~
- ~~_____ (3) Not each protocol approved in the U.S. Domestic Japanese beetle Harmonization Plan is acceptable for Utah.~~
- ~~_____ (4) Advance notification of restricted article shipment is required.~~
- ~~_____ (5) The certificate shall bear the name and address of the shipper and receiver as well as the inspection certificate date and the signature of the state agricultural officer.~~
- ~~_____ (6) The certifying official shall mail, FAX, or email a copy of the certificate to:~~
 - ~~_____ (a) Director, Plant Industry Division, Utah Department of Agriculture and Food, 4315 South 2700 West TSOB South Bldg, Floor 2 Taylorsville, UT 84129-2128;~~
 - ~~_____ (b) FAX: (801) 538-7189; or~~
 - ~~_____ (c) email: UDAF.Nursery@utah.gov.~~
- ~~_____ (7) The shipper shall notify the receiver to hold the restricted articles for inspection by the department.~~
- ~~_____ (8) The receiver shall notify the department of the arrival of restricted articles imported under this quarantine and shall hold the restricted articles for inspection.~~
- ~~_____ (9) Inspection certificates shall be issued only if the shipment conforms fully with Section R68-15-7.~~

~~R68-15-7. Certification Requirements.~~

- ~~_____ (1) Certification requires production in an approved Japanese beetle free greenhouse or screenhouse, and that:~~
 - ~~_____ (a) any media shall be sterilized and free of soil;~~
 - ~~_____ (b) any stock shall be free of soil, bareroot before planting into the approved medium;~~
 - ~~_____ (c) potted plants shall be maintained within the greenhouse or screenhouse during the entire adult flight period;~~
 - ~~_____ (d) during the adult flight period the greenhouse or screenhouse shall be made secure so that adult Japanese beetles cannot gain entry;~~
 - ~~_____ (e) security shall be documented by the appropriate phytosanitary officials of the origin state and each area shall be specifically approved as a secure area;~~
 - ~~_____ (f) the greenhouse, or screenhouse shall be inspected by the appropriate phytosanitary officials for the presence of any life stages of the Japanese beetle;~~
 - ~~_____ (g) the plants and their growing medium shall be appropriately protected from subsequent infestation while being stored, packed and shipped;~~

NOTICES OF PROPOSED RULES

- ~~_____ (h) certified greenhouse, or screenhouse nursery stock may not be transported into or through any infested areas unless identity is preserved and adequate safeguards are applied to prevent possible infestation; and~~
- ~~_____ (i) each greenhouse, or screenhouse operation shall be approved by department phytosanitary officials as having met and maintained the criteria in Subsection R68-15-7(1), and shall be issued an appropriate certificate that includes the following declaration: "The rooted plants (or crowns) were produced in an approved Japanese beetle free greenhouse or screenhouse."~~
- ~~_____ (2) Production During a Pest Free Window:~~
- ~~_____ (a) The entire rooted plant production cycle shall be completed within a pest free window, in clean containers with sterilized and soilless growing medium such as that planting, growth, harvest, and shipment will occur outside the adult Japanese beetle flight period, June through October.~~
- ~~_____ (b) The accompanying phytosanitary certificate shall bear the following declaration: "These plants were produced outside the Japanese beetle flight season."~~
- ~~_____ (3) Applications of Approved Regulatory Treatments:~~
- ~~_____ (a) Any treatments shall be performed under direct supervision of a phytosanitary official of the origin state or under a compliance agreement.~~
- ~~_____ (b) Treatments and procedures performed under a compliance agreement shall be monitored closely throughout the season.~~
- ~~_____ (c) State phytosanitary certificates listing and verifying the treatment used shall be forwarded to the receiving state via fax or electronic mail, as well as accompanying the shipment.~~
- ~~_____ (i) Not each treatment approved in the U.S. Domestic Japanese beetle Harmonization Plan are acceptable for Utah.~~
- ~~_____ (d) The phytosanitary certificate shall bear the following declaration: "The rooted plants were treated to control "Popillia japonica" according to the criteria for shipment to category 1 states as provided in the U.S. Domestic Japanese beetle Harmonization Plan and Utah Japanese beetle Quarantine."~~
- ~~_____ (e) Treatment Protocols:~~
- ~~_____ (i) Dip Treatment – balled and burlapped and container Pplants. Dip treatment is not an approved treatment protocol.~~
- ~~_____ (ii) Drench Treatment – Container Plants Only:~~
- ~~_____ (A) Drench treatment is a prophylactic treatment protocol targeting eggs and early first instar larvae.~~
- ~~_____ (B) If the containers are exposed to a second flight season they shall be retreated.~~
- ~~_____ (C) Drench treatment is not approved for ornamental grasses or sedges.~~
- ~~_____ (D) Potting media used shall be sterile and soilless, and containers shall be clean.~~
- ~~_____ (E) Field potted plants are not eligible for certification using the drench treatment protocol.~~
- ~~_____ (F) Imidacloprid (Marathon 60WP) is an accepted drench treatment.~~
- ~~_____ (I) 0.5 grams of active ingredient shall be applied per gallon as a prophylactic treatment just before Japanese beetle adult flight season, which is June 1, or as otherwise determined by the phytosanitary official.~~
- ~~_____ (II) Tank mix shall be applied as a drench to wet the entire surface of the potting media.~~
- ~~_____ (III) A 24 gallon tank mix shall be enough to treat 120-140 one gallon containers.~~
- ~~_____ (IV) Over drenching shall be avoided to not waste active ingredients through leaching.~~
- ~~_____ (V) During the adult flight season, plants shall be retreated after 16 weeks if not shipped to assure adequate protection.~~
- ~~_____ (G) Bifenthrin, Talstar Nursery Flowable 7.9% is an accepted drench treatment.~~
- ~~_____ (I) Bifenthrin shall be mixed at the rate of 20 ounces per 100 gallons of water.~~
- ~~_____ (II) Bifenthrin shall be applied, as a drench, about eight ounces of tank mix per six inches of container diameter.~~
- ~~_____ (iii) Media, Granule, Incorporation – Container Plants Only:~~
- ~~_____ (A) Media, granule, incorporation treatment protocol targets eggs and early first instar larvae and allows for certification of plants that have been exposed to only one flight season after application.~~
- ~~_____ (B) Any pesticides used for media incorporation shall be mixed before potting and plants potted at least 30 days before shipment.~~
- ~~_____ (C) Potting media used shall be sterile and soilless, and containers shall be clean.~~
- ~~_____ (D) The granules shall be incorporated into the media before potting.~~
- ~~_____ (E) Field potted plants are not eligible for treatment.~~
- ~~_____ (F) If the containers are to be exposed to a second flight season they shall be repotted with a granule incorporated mix or retreated using one of the approved drench treatments under Subsection R68-15-7(2)(e)(ii).~~
- ~~_____ (G) Pesticides approved for media incorporation are:~~
- ~~_____ (I) Imidacloprid (Marathon 1G) mixed at the rate of five pounds per cubic yard;~~
- ~~_____ (II) Bifenthrin, Talstar Nursery Granular or Talstar T and O Granular (0.2) mixed at the rate of 25 parts per million (ppm) or 0.33 of a pound per cubic yard based on a potting media bulk density of 200; and~~
- ~~_____ (III) Tefluthrin, Fireban 1.5 G mixed at the rate of 25 ppm based on a potting media bulk density of 400.~~
- ~~_____ (iv) Nursery stock: methyl bromide fumigation at normal atmospheric pressure, chamber or tarpaulin. The authorized treatment schedules shall be those stated in the California Commodity Treatment Manual.~~
- ~~_____ (v) Other treatment or protocol not described in this rule may be submitted for review and approved by the commissioner.~~
- ~~_____ (4) Detection Survey for Origin Certification:~~
- ~~_____ (a) U.S. Domestic Japanese beetle Harmonization Plan protocol not approved.~~
- ~~_____ (b) Alternative approved protocol:~~
- ~~_____ (i) States listed in the area under quarantine may have counties that are not infested with Japanese beetle.~~
- ~~_____ (ii) Shipments of restricted articles may be accepted from noninfested counties if annual surveys are made in these counties and adjacent counties and the results of the surveys are negative for Japanese beetle.~~

- ~~_____ (iii) The plants shall be greenhouse grown or contained in media that is sterilized and free of soil and the shipping nursery shall grow their own stock from seed, unrooted cuttings, or bareroot material.~~
- ~~_____ (iv) A list of approved counties shall be maintained by the department.~~
- ~~_____ (v) Agricultural officials from a quarantined state or province may recommend a noninfested county be placed on the approved county list by writing for approval and stating how surveys were conducted including:~~
 - ~~_____ (A) areas surveyed;~~
 - ~~_____ (B) how survey was carried out;~~
 - ~~_____ (C) number of traps;~~
 - ~~_____ (D) results of survey;~~
 - ~~_____ (E) history of survey; and~~
 - ~~_____ (F) if a county was previously infested, give the date of last infestation.~~
- ~~_____ (vi) If infestations occur in neighboring counties, approval may be denied.~~
- ~~_____ (vii) To be maintained on the approved list, each county shall be reapproved each 12 months.~~
- ~~_____ (viii) Shipments of restricted articles from noninfested counties shall only be allowed entry into Utah if the uninfested county has been placed on the approved list before the arrival of the shipment in Utah.~~
- ~~_____ (ix) The certificate shall have the following declaration: "The plants in this consignment were produced in (name of county), state of (name of state of origin) that is known to be free of Japanese beetle."~~
- ~~_____ (5) Privately owned house plants obviously grown, or certified at the origin state as having been grown indoors without exposure to Japanese beetle may be allowed entry into this state without meeting the requirements of Section R68-15-5.~~
 - ~~_____ (a) Contact the department by mail, FAX, or email for requirements:~~
 - ~~_____ (i) Director, Plant Industry Division, Utah Department of Agriculture and Food, 4315 South 2700 West TSOB South Bldg, Floor 2 Taylorsville, UT 84129 2128;~~
 - ~~_____ (ii) FAX: (801) 538-7189; or~~
 - ~~_____ (iii) email: UDAF.Nursery@utah.gov.~~

R68-15-8. Disposition of Violations.

- ~~_____ (1) Any shipments or lots of restricted articles arriving in Utah in violation of this quarantine shall immediately be sent out of the state, destroyed, or treated by a method and in a manner as directed by the department or.~~
- ~~_____ (2) Treatment shall be performed at the expense of the owner or their authorized agent.]~~

R68-15-1. Authority.

~~_____ Promulgated under the authority of Subsection 4-2-103(1)(i) and Section 4-35-109.~~

R68-15-2. Purpose.

- ~~_____ (1) In accordance with Subsection 4-2-103(1)(k), this rule establishes a quarantine, to prevent the spread of the Japanese beetle, *Popillia japonica*.~~
- ~~_____ (2) This rule identifies the states and Canadian provinces under quarantine, provides import requirements of articles and commodities that are potential carriers or hosts, and details certification options for importation or shipping plant material.~~

R68-15-3. Definitions.

~~_____ In addition to the definitions and terms listed in Section 4-15-103, this rule defines the following terms for this rule.~~

- ~~_____ (1) "Commissioner" means the Commissioner or the Commissioner's designee, of the Utah Department of Agriculture and Food.~~
- ~~_____ (2) "Compliance agreement" means the same as defined in Subsection 4-15-103(3).~~
- ~~_____ (3) "Department" means the Utah Department of Agriculture and Food.~~
- ~~_____ (4) "Free From Soil" means soil in amounts that may not contain hidden Japanese beetle larvae or pupae.~~
- ~~_____ (5) "Japanese beetle, *Popillia japonica*" means a beetle, family Scarabaeidae, which in the larval state attacks the roots of many plants and as an adult attacks the leaves and fruits of many plants, and which the department considers an invasive and harmful pest that jeopardizes property and resources.~~
- ~~_____ (6) "Phytosanitary certificate" or "certificate" means an official paper or electronic document, issued by a government agency, which certifies a shipment of plants, plant products, or other regulated articles destined for Utah is inspected and found to be free from quarantine pests and may certify that the shipment is treated according to specified phytosanitary import requirements.~~
- ~~_____ (7) "Phytosanitary Official" means a person the department authorizes to act as an agriculture official to inspect and issue certificates, or a person of another state authorized as an agriculture official to inspect and issue certificates.~~
- ~~_____ (8) "Regulated Article" means any plant, plant product, storage place, packaging, conveyance, container, soil, and any other organism, object, or material capable of harboring or spreading pests, which Section R68-15-5 names, and is subject to phytosanitary measures, particularly when transporting across state lines.~~
- ~~_____ (9) "State Agricultural Official" means a government employee who has the authority to perform duties related to agricultural inspections, quarantine, or enforcement.~~

R68-15-4. Quarantine Areas.

- ~~_____ (1) The department prohibits the entry of Japanese beetle into Utah through the sale of plants and plant products by placing a general quarantine on:~~
 - ~~_____ (a) the entire state as listed in Table 1; and~~

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<u>Table 1</u>		
<u>Alabama</u>	<u>Maryland</u>	<u>Ohio</u>
<u>Arkansas</u>	<u>Massachusetts</u>	<u>Oklahoma</u>
<u>Colorado</u>	<u>Michigan</u>	<u>Pennsylvania</u>
<u>Connecticut</u>	<u>Minnesota</u>	<u>Rhode Island</u>
<u>Delaware</u>	<u>Mississippi</u>	<u>South Carolina</u>
<u>Florida</u>	<u>Missouri</u>	<u>South Dakota</u>
<u>Georgia</u>	<u>Montana</u>	<u>Tennessee</u>
<u>Illinois</u>	<u>Nebraska</u>	<u>Texas</u>
<u>Indiana</u>	<u>New Hampshire</u>	<u>Vermont</u>
<u>Iowa</u>	<u>New Jersey</u>	<u>Virginia</u>
<u>Kansas</u>	<u>New Mexico</u>	<u>West Virginia</u>
<u>Kentucky</u>	<u>New York</u>	<u>Wisconsin</u>
<u>Louisiana</u>	<u>North Carolina</u>	<u>Wyoming</u>
<u>Maine</u>	<u>North Dakota</u>	<u>District of Columbia</u>

(b) Canadian provinces as listed in Table 2.

<u>Table 2</u>	
<u>New Brunswick</u>	<u>Ontario</u>
<u>Newfoundland and Labrador</u>	<u>Prince Edward Island</u>
<u>Nova Scotia</u>	<u>Quebec</u>

(3) The department may quarantine any area within the state where Japanese beetles are found or known to occur, even if that area is not listed in Tables 1 and 2.

R68-15-5. Regulated Articles and Commodities Under Quarantine.

(1) The department considers the following to be hosts and possible carriers of each stage of the life cycle of the Japanese beetle:

(a) soil, humus, compost, and manure;

(b) any plants with roots;

(c) grass sod;

(d) plant, crowns, or roots for propagation; and

(e) bulbs, corms, tubers, and rhizomes of ornamental plants.

(2) The department may determine any other plant, plant part, article, or means of conveyance that could spread live Japanese beetle due to infestation or exposure to infestation to be a host or possible carrier of the Japanese beetle.

(3) The department may consider the Japanese beetle *Popillia japonica*, in any stage of its life cycle, as anything used to transport or harbor the beetle, including any vehicle or object used for transport to be a host or possible carrier.

(4) The department may exempt articles from being considered hosts or carriers, in each stage of the life cycle of the Japanese beetle, if the eligible article:

(a) is commercially packaged and treated according to Subsection R68-15-7(2), and the eligible article includes:

(i) soil;

(ii) humus;

(iii) compost; and

(iv) manure;

(b) is entirely free from soil, and the eligible article includes:

(i) bareroot;

(ii) plant, crowns, or roots for propagation;

(iii) bulbs;

(iv) corns;

(v) tubers; and

(vi) rhizomes of ornamental plants.

(5) Although the department exempts items in Subsection R68-15-5(4) if a Japanese beetle is found or suspected, in any stage of life and any of the regulated articles, they are subject to treatment, refusal, or destruction.

(6) The department may consider bare root plants that have had packing materials added after harvesting as not a normal pest risk.

R68-15-6. Quarantine Restrictions.

(1) The department shall prohibit entry of regulated articles into Utah from quarantine areas until a phytosanitary certificate or compliance agreement has been completed indicating any applicable certification requirements have been met.

(2) A nursery stock or plant owner may ship plants from a quarantine area into Utah if the shipments meet the requirements in this rule and are accompanied by a certificate issued by the origin state.

(3) The department reserves the right to evaluate and may choose not to accept all protocols outlined in the U.S. Domestic Japanese Beetle Harmonization Plan or the US-Canada Greenhouse Grown Plant Certification program for imports.

(4) Before shipping any regulated articles shipments, the shipper shall notify:

(a) the department; and

(b) the receiver to hold the regulated articles for inspection by the department.

(5) The state agricultural officer from the state of origin shall issue a certificate that includes:

(a) shipment certification meets the requirements in Section R68-15-7;

(b) shipper and receiver's name and address;

(c) the inspection certificate date; and

(d) the signature of the state agricultural official.

(6) The state agricultural official from the originating state or exporting nursery shall email a copy of the phytosanitary certificate or compliance agreement to the email: UDAF-Nursery@utah.gov.

(7) The receiver shall notify the department of the arrival of regulated articles imported under this quarantine and shall hold the regulated articles for inspection.

R68-15-7. Certification Requirements.

(1) To import regulated articles and commodities into Utah, a phytosanitary certificate or compliance agreement shall accompany the shipment that certifies compliance with this section.

(2) The certification may require the following:

(a) for production in an approved Japanese beetle free greenhouse or screenhouse:

(i) sterilizing any growing media and free of soil;

(ii) any plant stock shall be free of soil, and bare root before planting into the approved medium;

(iii) potted plants shall remain inside the greenhouse or screenhouse during the entire adult flight period;

(iv) during the adult flight period, the greenhouse or screen house shall be secure so that adult Japanese beetles may not gain entry;

(v) the state agricultural official from the state of origin shall document and approve the security of each area and shall inspect the greenhouse or screenhouse for the presence of any life stages of the life cycle of the Japanese beetle;

(vi) the owner shall protect the plants and their growing medium from infestation while being stored, packed, and shipped;

(vii) the owner shall implement safeguards to maintain the identity of certified greenhouse or screen house nursery stock during transport into or through any infested areas; and

(viii) the certificate shall have the statement: " The rooted plants, or crowns, were produced in an approved Japanese beetle free greenhouse or screenhouse. "

(b) for production in an approved pest free window:

(i) shall complete the entire rooted plant production cycle within a pest free window;

(ii) shall grow plants in clean containers filled with sterilized and soilless growing medium;

(iii) planting, growth, harvest, and shipment of plants shall occur outside of the adult Japanese beetle flight period which is typically June through October; and

(iv) shall state on the certificate: "These plants were produced outside the Japanese beetle flight season."

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(3) The department may approve alternative certification plans for nursery stock or plants for planting that do not conform to production qualifications listed in this section if the shipper submits the plans before shipment.

(4)(a) A state agricultural official from the state of origin, or a compliance agreement, shall directly govern the application of any treatment performed.

(b) If performed under a compliance agreement, the grower shall closely monitor treatments and procedures throughout the season.

(5) The department may, at its discretion, accept a treatment application as outlined in the U.S. Domestic Japanese Beetle Harmonization Plan.

(6) The department shall certify application of drench treatments of container only plants if the treatment:

(a) uses any chemical treatment at the maximum label rate;

(b) targets eggs and early first-instar larvae through prophylactic treatment;

(c) includes retreating containers exposed to a second flight season;

(d) is of containerized nursery stock with root balls 12 inches in diameter or smaller;

(e) effectively controls Japanese beetles through applying Imidacloprid, Bifenthrin, or another chemical approved by the department;

(f) uses sterile and soilless potting media and clean containers;

(g) applies the tank mix as a drench to wet the entire surface of the potting media; and

(h) avoids over drenching to not waste active ingredients through leaching.

(7) The department may not certify using a drench treatment for ornamental grasses, sedges, or field potted plants.

(8) The department shall certify the application of any media, granule, or incorporation treatment of container only plants if the treatment:

(a) targets eggs and early first-instar larvae;

(b) is mixed before potting and plants are potted at least 30 days before shipment;

(c) uses sterile and soilless potting media and clean containers;

(d) incorporates the granules into the media before potting;

(e) uses containers repotted with a granule incorporated mix or retreated using one of the approved drench treatments under Section R68-15-7 if containers are exposed to a second flight season; and

(f) uses an approved pesticide that includes Imidacloprid, Bifenthrin, or Tefluthrin.

(9) The department may not certify using a media, granule, or incorporation treatment for ornamental grasses, sedges, or field potted plants.

(10) Nursery stock operators may use methyl bromide fumigation at normal atmospheric pressure in a chamber or under a tarpaulin, according to label instructions, as a method to meet certification requirements.

(11)(a) A state agricultural official or the grower shall complete and include the following statement on the applicable phytosanitary certificate or compliance agreement accompanying any treated shipment:

(b) "The nursery stock in this shipment was treated for Japanese beetles on the date _____ in accordance with Rule R68-15 Quarantine Pertaining to Japanese Beetle, Popillia japonica. The treatment was _____. This shipment will be shipped within 30 days of treatment. Application witnessed by inspector name: _____, and inspector signature: _____."

(12) The department may review and approve other treatments, protocols, or procedures for certification not listed in this rule.

R68-15-8. Compliance Agreements and Shipping from Non-infested Counties.

(1)(a) The state agricultural official from the state of origin shall complete and sign compliance agreements annually that the department may approve.

(b) The department may revoke a compliance agreement at any time for violation or potential violation of this rule.

(2) The exporting state may conduct origin certification surveys, including the use of alternative protocols approved by the department.

(3) The department may, at its discretion, approve specific protocols from the U.S. Domestic Japanese Beetle Harmonization Plan.

(4) The department may review the states listed in Table 1 to identify counties that are potentially non-infested areas.

(5) The department may allow shipments of regulated articles from non-infested counties if:

(a) the annual surveys in the specific and adjacent counties have results that show they are negative for Japanese beetle;

(b) plants are grown in a greenhouse, or contained in media that is sterilized and free of soil; and

(c) the shipping nursery grows its stock from seed, unrooted cuttings, or bare root material.

(6) The department shall maintain a list of approved counties that may ship to Utah.

(7) To recommend a non-infested county to be placed on the approved county list, agricultural officials from a quarantined state or province may submit a written request to the department that includes:

(a) specific areas surveyed within the county;

(b) survey procedures and techniques used;

(c) number of traps utilized;

(d) survey results and findings;

(e) historical survey data for the county; and

(f) if a county was previously infested, the date of the last confirmed infestation.

(8)(a) The department may not approve of a county if infestations occur in neighboring counties.

(b) The department may re-evaluate the approval status of each county on an annual basis.

(c) The department will permit entry of regulated article shipments from non infested counties into Utah if the non infested county has been placed on the approved list before the arrival of the shipment in Utah.

- (9) The origin certificate shall have the following declaration: "The plants in this consignment were produced in the county of _____, name of origin state _____ that is known to be free of Japanese beetles."
 (10) The department may allow privately owned house plants obviously grown or certified at the origin state and not intended to sell, as having been grown indoors without exposure to Japanese beetle into Utah without meeting the requirements of Section R68-15-5.
 (11) An individual may request a copy of these requirements as listed in this rule via email: UDAF-Nursery@utah.gov.

R68-15-9. Violations.

- (1) The department shall respond to violations of this quarantine by immediately directing any shipments or lots of regulated articles be:
 (a) sent out of the state;
 (b) destroyed; or
 (c) treated by a method and in a manner as directed by the department.
 (2) The owner or their authorized agent is responsible to pay any costs associated with the required treatments or disposals of shipments in violation of this quarantine.

KEY: quarantine, Japanese beetle, articles and commodities, phytosanitary, certification

Date of Last Change: ~~2025~~ June 8, 2022

Notice of Continuation: June 3, 2022

Authorizing, and Implemented or Interpreted Law: 4-2-103(1)(k); 4-35-109

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Repeal and Reenact		
Rule or Section Number:	R356-2	Filing ID: 57029

Agency Information

1. Title catchline:	Governor, Criminal and Juvenile Justice (State Commission on)	
Building:	Utah State Capitol, Senate Building	
Street address:	350 N State Street	
City, state	Salt Lake City, UT	
Mailing address:	PO Box 142330	
City, state and zip:	Salt Lake City, UT 84114-2330	
Contact persons:		
Name:	Phone:	Email:
Angelo Perillo	801-538-1047	aperillo@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R356-2. Judicial Nominating Commissions
3. Purpose of the new rule or reason for the change:
The purpose of these proposed changes is to ensure sure that the rules governing the Judicial Nominating Commissions are consistent with the language in Title 78A, Chapter 10a, Judicial Selection, and the current practices of the Commissions.
4. Summary of the new rule or change:
In the 2024 General Session of the Utah Legislature, H.B. 300 created a new court in the State of Utah, the Chancery Court. Because of the addition of the new Court and other changes with the judicial nominating process, this rule needed to be updated. This rule describes the procedures for meetings of the Judicial Nominating Commissions and the standards, criteria, and procedures for the judicial nominating process. This rule is being repealed and reenacted to ensure that the new rule conforms to the current practices that are followed by the Nominating Commissions and that these procedures are incorporated for the new Chancery Court.

Fiscal Information

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

A) State budget:

The changes in this rule will not have any effect on the state budget because the proposed changes only describe the current practices and procedures of the Judicial Nominating Commissions.

B) Local governments:

This rule will not have any effect on local governments because it does not apply to local governments.

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

This rule will not have any effect on small businesses because it does not apply to small businesses.

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

This rule will not have any effect on non-small businesses because it does not apply to non-small businesses.

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

This rule will not have any effect on persons other than small businesses, non-small businesses, state, or local government entities because it does not apply to persons other than small businesses, non-small businesses, state, or local government entities.

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

There will be no compliance costs for affected persons because this rule does not create new procedures for the Judicial Nominating Commissions instead this rule is being amended to conform with current practices.

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

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

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

This rule will have no fiscal impact on any entities and the Executive Director of the Commission on Criminal and Juvenile Justice, Tom Ross, 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 78A-10a-201		
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Public Notice Information

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

A) Comments will be accepted until:	03/17/2025
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9. This rule change MAY become effective on:	03/24/2025
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Tom Ross, Executive Director	Date:	11/08/2024
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R356. Governor, Criminal and Juvenile Justice (State Commission on).

R356-2. Judicial Nominating Commissions.

~~R356-2-1. Definitions.~~

~~As used in R356-2:~~

~~(1) "Application period" means the period of time during which applications for a judicial vacancy may be submitted and begins with the posting of a notice of vacancy and ends with the closing period for submitting applications as identified in the notice of vacancy. The application period is part of the recruitment period.~~

~~(2) "CCJJ" means the staff of the Commission on Criminal and Juvenile Justice.~~

~~(3) "Commission" means the judicial nominating commission having authority over the judicial vacancy.~~

~~(4) "Commission staff" means the individuals assigned by the governor to provide staff support to the commission pursuant to Utah Code Annotated Section 78A-10-203(2) or 78A-10-303(2).~~

~~(5) "Notice of vacancy" means the announcement of a current or pending judicial vacancy by CCJJ to the public as provided in R356-2-3.~~

~~(6) "Organizational meeting" means the first meeting of a commission after the close of the recruitment period.~~

~~(7) "Recruitment period" means the period of time beginning with the posting of a notice of vacancy and ending with the completion of all tasks necessary to convene the commission. The recruitment period includes the application period.~~

~~R356-2-2. Recruitment Period.~~

~~(1) CCJJ shall begin the recruitment period for a judicial vacancy 235 days before the effective date of the judicial vacancy unless sufficient notice is not given, in which case CCJJ shall begin the recruitment period within 10 days of receipt of notice of the judicial vacancy by the governor.~~

~~(2) The application period for a judicial vacancy shall be a minimum of 30 days.~~

~~(3) The recruitment period for a judicial vacancy shall be a minimum of 30 days but not more than 90 days unless fewer than nine applications are received for a judicial vacancy in which case the recruitment period may be extended up to an additional 30 days.~~

~~R356-2-3. Notice of Vacancy.~~

~~(1) As part of the recruitment period, CCJJ shall post a notice of vacancy on its website and shall provide a notice of vacancy to:~~

~~(a) the Utah State Bar to be distributed to its members;~~

~~(b) members of the media;~~

~~(c) the Administrative Office of the Courts;~~

~~(d) the president of the Utah Senate; and~~

~~(e) other offices and associations as CCJJ determines appropriate.~~

~~(2) The notice of vacancy shall include:~~

~~(a) the jurisdiction of the court in which the vacancy occurs;~~

~~(b) the constitutional minimum requirements for judicial office;~~

~~(c) a brief description of the work of the court;~~

~~(d) the method for obtaining application forms;~~

~~(e) the application deadline; and~~

~~(f) the method for submitting oral or written comments at a meeting of the commission.~~

~~R356-2-4. Applications.~~

~~(1) Applications for a judicial vacancy shall include:~~

~~(a) an application form established by CCJJ which shall require applicants to provide:~~

NOTICES OF PROPOSED RULES

- ~~_____ (i) education history;~~
- ~~_____ (ii) work history;~~
- ~~_____ (iii) evidence of constitutional qualifications;~~
- ~~_____ (iv) information regarding litigation as a party;~~
- ~~_____ (v) attorney and judicial references as provided in R395-2-5; and~~
- ~~_____ (vi) other information relevant to fitness to serve as a judge as determined by CCJJ;~~
- ~~_____ (b) a waiver of the right to review the records in the nomination and appointment processes;~~
- ~~_____ (c) a waiver of confidentiality of records which are the subject of investigation by the commission;~~
- ~~_____ (d) an authorization for CCJJ to obtain consumer reports about the applicant; and~~
- ~~_____ (e) a one paragraph summary of professional qualifications that will be made available to the public if the applicant's name is released for public comment prior to nomination.~~
- ~~_____ (2) Applicants shall submit:~~
 - ~~_____ (a) an original and eight copies of the complete application;~~
 - ~~_____ (b) an original and eight copies of the applicant's resume; and~~
 - ~~_____ (c) a check made payable to CCJJ in an amount specified by CCJJ to cover the cost of a credit check.~~
- ~~_____ (3) If the applicant has applied for another judicial position within the prior year, the applicant may satisfy the application requirements by submitting:~~
 - ~~_____ (a) a letter to CCJJ expressing interest in applying for the judicial vacancy and in using the previously submitted application; and~~
 - ~~_____ (b) a check made payable to CCJJ in an amount specified by CCJJ to cover the cost of a credit check.~~
- ~~_____ (4) CCJJ shall establish application forms and make the forms available electronically and in hard copies.~~
- ~~_____ (5) Applications are considered timely submitted if CCJJ receives all application materials prior to the application deadline. Applications mailed, but not received by CCJJ, prior to the application deadline are not considered timely submitted. Partial applications are not considered timely submitted.~~
- ~~_____ (6) Following receipt of applications, CCJJ shall conduct investigations in the following areas for each applicant:~~
 - ~~_____ (a) criminal background;~~
 - ~~_____ (b) disciplinary actions taken by the Utah State Bar;~~
 - ~~_____ (c) disciplinary actions taken by the Judicial Conduct Commission; and~~
 - ~~_____ (d) consumer credit.~~

R356-2-5. References.

- ~~_____ (1) Applicants who are engaged in an adversarial practice shall submit the following types of references as specified in the application:~~
 - ~~_____ (a) lawyers adverse to the applicant in litigation or negotiations;~~
 - ~~_____ (b) lawyers with whom the applicant has had a substantial professional interaction within the previous two years;~~
 - ~~_____ (c) judges assigned to cases in which the applicant acted as a lawyer; and~~
 - ~~_____ (d) judges who know the applicant.~~
- ~~_____ (2) Applicants who are engaged in a non-adversarial practice and who are not judges shall submit the following types of references as specified in the application:~~
 - ~~_____ (a) lawyers with whom the applicant has had a substantial professional interaction within the previous two years; and~~
 - ~~_____ (b) judges who know the applicant.~~
- ~~_____ (3) Applicants who are judges shall submit the following types of references as specified in the application:~~
 - ~~_____ (a) lawyers with whom the applicant has had a substantial professional interaction within the previous two years;~~
 - ~~_____ (b) judges who know the applicant; and~~
 - ~~_____ (c) lawyers who represented parties in cases over which the applicant presided as judge.~~
- ~~_____ (4) CCJJ shall select which references will be contacted and requested to complete a standard reference form established by CCJJ.~~

R356-2-6. Pre-Screening of Applications.

- ~~_____ (1) CCJJ shall review the applications upon the passing of the application deadline and remove all applications submitted by applicants who do not meet the constitutional qualifications.~~
- ~~_____ (2) CCJJ shall provide to all members of the commission a list of all applicants identified as not meeting the constitutional qualifications.~~

R356-2-7. Meetings of the Commission.

- ~~_____ (1) The commission shall convene an organizational meeting within 10 days of the end of the recruitment period.~~
- ~~_____ (2) During the organizational meeting the commission shall:~~
 - ~~_____ (a) allow public comment concerning:~~
 - ~~_____ (i) the nominating process;~~
 - ~~_____ (ii) qualifications for judicial office;~~
 - ~~_____ (iii) issues facing the judiciary; and~~
 - ~~_____ (iv) other issues as determined appropriate by the commission; and~~
 - ~~_____ (b) following public comment, close the meeting to the public to:~~
 - ~~_____ (i) establish a timeframe for certifying a list of nominees to the governor;~~
 - ~~_____ (ii) discuss applicants; and~~
 - ~~_____ (iii) discuss conflicts of interest as provided in R356-2-9.~~

- ~~_____ (3) The Commission may meet as necessary to certify the list of nominees to the governor, but shall certify the list of nominees no later than 45 days after convening the organizational meeting.~~
- ~~_____ (4) The chair of the commission presides at all meetings and ensures that each commissioner has the opportunity to be a full participant in the commission process.~~
- ~~_____ (5) The member of the Judicial Council appointed by the chief justice of the Utah Supreme Court pursuant to Utah Code Annotated Section 78A-10-202(6) or 78A-10-302(8) shall be a full participant in discussions of the commission, but may not vote.~~
- ~~_____ (6) The commission staff shall:~~
- ~~_____ (a) ensure that the commission follows the rules promulgated by CCJJ;~~
 - ~~_____ (b) resolve any questions regarding the rules promulgated by CCJJ;~~
 - ~~_____ (c) take summary minutes of commission meetings which shall include:~~
 - ~~_____ (i) the date, time and place of the meeting;~~
 - ~~_____ (ii) a list of the commission members present and a list of those absent or excused;~~
 - ~~_____ (iii) a list of commission staff present;~~
 - ~~_____ (iv) a general description of the decisions made;~~
 - ~~_____ (v) any declarations by commission members of a relationship, interest or bias concerning any applicant;~~
 - ~~_____ (vi) a record of the total tally of all votes, but not the vote of individual commission members;~~
 - ~~_____ (vii) written statements submitted to the commission; and~~
 - ~~_____ (viii) any other matter desired by the commission to be included; and~~
 - ~~_____ (d) perform other tasks assigned by the commission that are consistent with governing statutes and rules.~~
- ~~_____ (7)(a) The commission shall determine which applicants will be invited to interview.~~
- ~~_____ (b) Each commission member shall have the opportunity to question applicants during interviews and to discuss the qualifications of applicants.~~
- ~~_____ (c) In questioning applicants and discussing the qualifications of applicants, the chair shall speak last and the member of the Judicial Council appointed by the chief justice of the Utah Supreme Court shall speak next to last.~~
- ~~_____ (8)(a) If a commission member refuses to follow governing statutes or rules, the commission member is disqualified from the commission and the governor shall appoint a replacement.~~
- ~~_____ (b) The commission staff determines whether a commission member refuses to follow governing statutes or rules.~~
- ~~_____ (9)(a) Following all applicant interviews, commission members shall determine by confidential ballot which applicants will be certified to the governor as nominees.~~
- ~~_____ (b) The Appellate Court Nominating Commission shall certify a list of seven names to the governor.~~
- ~~_____ (c) Trial Court Nominating Commissions shall certify a list of five names to the governor.~~
- ~~_____ (10)(a) Prior to certifying the list of nominees to the governor, the commission shall allow public comment on the nominees for a minimum of 10 days.~~
- ~~_____ (b) Following the public comment, the commission may remove an applicant from the list of nominees if:~~
 - ~~_____ (i) the commission receives new information about an applicant that demonstrates the applicant is unfit to serve as a judge;~~
 - ~~_____ (ii) provides to the applicant being considered for removal from the list of nominees a copy of any written comments received during the public comment period about that applicant;~~
 - ~~_____ (iii) allows the applicant being considered for removal from the list the opportunity to respond to the information received during the public comment period; and~~
 - ~~_____ (iv) not less than one fewer than the total number of commission members at the meeting vote in favor of removing the applicant from the list of nominees.~~
 - ~~_____ (d) If the commission removes an applicant from the list of nominees the commission shall select another nominee from among the interviewed applicants and again allow public comment on the nominees for a minimum of 10 days.~~

R356-2-8. Certifying the List of Nominees.

- ~~_____ (1) After the commission has determined which applicants to include in the list of nominees, it shall deliver the list of nominees to the governor, the president of the Senate and the Office of Legislative Research and General Counsel by letter from the chair of the commission.~~
- ~~_____ (2) Commission staff shall deliver to the governor a copy of the complete application and all related documents for each nominee.~~
- ~~_____ (3)(a) If a nominee withdraws before the governor has made an appointment, the commission may, at the request of the governor, nominate a replacement if it can do so before the expiration of the commission's original 45-day deadline.~~
- ~~_____ (b) Unless time permits, the commission does not need to publish the name of the replacement nominee for public comment.~~

R356-2-9. Conflicts of Interest.

- ~~_____ (1) Commission members shall disclose during the organizational meeting the existence and nature of a relationship with an applicant that may impact the commission member's ability to fairly and impartially evaluate the applicant or any other applicant.~~
- ~~_____ (2)(a) A commission member who believes they have a relationship with an applicant that will impact their ability to fairly and impartially evaluate an applicant shall recuse themselves from the nominating process.~~
- ~~_____ (b) If a commission member discloses a relationship with an applicant and does not recuse themselves from the nominating process, the commission may, by majority vote, disqualify the commission member from participation if the commission believes the relationship will impact the commission member's ability to fairly and impartially evaluate an applicant.~~
- ~~_____ (c) A commission member who has recused themselves or been disqualified by the commission may rejoin the nominating process if:~~
- ~~_____ (i) the applicant with whom the commission member has a relationship is no longer being considered by the commission; and~~

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- ~~_____ (ii) the commission decides, by majority vote, to allow the commission member to participate.~~
- ~~_____ (3) A commission member who is related to an applicant within the third degree shall be disqualified from the nominating process.~~

R356-2-10. Evaluation Criteria.

~~_____ (1) In addition to criteria established by the Utah Constitution and the Utah Code Annotated, commission members shall during the nomination process consider the applicants':~~

- ~~_____ (a) integrity;~~
- ~~_____ (b) legal knowledge and ability;~~
- ~~_____ (c) professional experience;~~
- ~~_____ (d) judicial temperament;~~
- ~~_____ (e) work ethic;~~
- ~~_____ (f) financial responsibility;~~
- ~~_____ (g) public service;~~
- ~~_____ (h) ability to perform the work of a judge; and~~
- ~~_____ (i) impartiality.~~

~~_____ (2) When evaluating applicants for a juvenile court judge position, commission members shall consider the applicants' interest in, understanding of, and experience with the issues and problems facing children and families.~~

~~_____ (3) When evaluating applicants for an appellate court position, commission members shall consider the applicants' ability to give and receive criticism of opinions and arguments without taking offense.~~

~~_____ (4) When deciding among applicants for any judicial position whose qualifications, taken as a whole, appear in all other respects to be comparable, it is relevant to consider the background and experience of the applicants in relation to the current composition of the bench for which the appointment is being made.~~

~~_____ (5) Unless otherwise provided by statute, members of trial court nominating commissions may not decline to interview an applicant or decline to nominate an applicant based primarily on the geographic location of the applicant's residence or the geographic location of the applicant's employment.~~

R356-2-11. Confidentiality.

~~_____ (1) All applications and related documents for a judicial vacancy, names of applicants and all discussions during commission meetings are confidential.~~

~~_____ (2)(a) Except as provided in R356-2-8(2) and in this Subsection (2) or as otherwise required by law, commission members and commission staff shall not disclose the details of applications or the details of commission discussions to any person other than commission members or commission staff.~~

~~_____ (b) Commission members may disclose the names of applicants only as necessary to make inquiries regarding the qualifications of applicants.~~

~~_____ (3)(a) Commission members shall return all applications and related documents to commission staff at the conclusion of the nomination process.~~

~~_____ (b) Notes taken by a commission member are not returned to commission staff.~~

~~_____ (c) Commission staff shall retain one copy of the application materials in accordance with an approved retention schedule and shall destroy other copies of the application materials.~~

~~_____ (4) Commission staff shall destroy all ballots used during the nomination process.~~

R356-2-12. Notice that a Judge is Removed or Intends to Resign or Retire.

~~_____ The Administrative Office of the Courts shall immediately notify the governor and CCJJ if it learns that a state judge:~~

- ~~_____ (1) has submitted formal notice of intent to retire;~~
- ~~_____ (2) has submitted formal notice of intent to resign;~~
- ~~_____ (3) has been removed from office; or~~
- ~~_____ (4) has otherwise vacated the judicial office.]~~

R356-2-1. Authority.

~~_____ This rule is authorized by Section 78A-10a-201.~~

R356-2-2. Purpose.

~~_____ The purpose of this rule is to:~~

- ~~_____ (1) establish procedures for meetings of a commission; and~~
- ~~_____ (2) create standards, criteria, and procedures for the judicial nominating process.~~

R356-2-3. Definitions.

~~_____ As used in this rule:~~

- ~~_____ (1) "AOC" means the Administrative Office of the Courts;~~
- ~~_____ (2) "CCJJ" means the Commission on Criminal and Juvenile Justice;~~
- ~~_____ (3) "commission" means a judicial nominating commission created in Sections 78A-10a-302, 78A-10a-402, and 78A-10a-502;~~
- ~~_____ (4) "commissioner" means an individual appointed by the governor to serve on a commission; and~~

(5) "commission staff" means the individuals assigned by the governor to provide assistance to a commission pursuant to Subsections 78A-10a-304(2), 78A-10a-404(2), and 78A-10a-504(2).

R356-2-4. Notice of Vacancy.

(1) When CCJJ is notified of a judicial vacancy, commission staff shall provide notice of the judicial vacancy:

- (a) on a public website designed for posting notice of judicial vacancies; and
- (b) to members of the Utah State Bar.

(2) The notice shall describe:

- (a) the jurisdiction of the judicial vacancy;
- (b) the statutory and constitutional requirements for judicial office;
- (c) how to apply for the judicial vacancy;
- (d) the application deadline; and
- (e) the selection process for the judicial vacancy.

R356-2-5. Applications.

(1) An individual seeking to apply for a judicial vacancy shall submit to CCJJ:

- (a) all of the information requested in the online application form;
- (b) a copy of the applicant's resume; and
- (c) authorization for commission staff to access and review the applicant's confidential information.

(2) In addition to the requirements described in Subsection (1), an applicant applying for an appellate judicial vacancy shall provide:

- (a) a legal writing sample that does not exceed 10 pages; and
- (b) an essay addressing a topic provided by CCJJ that does not exceed 2 pages.

(3) An applicant may include the names and contact information from the following references:

- (a) if the applicant is an attorney engaged in an adversarial practice:
 - (i) opposing counsel in legal matters that the applicant has litigated or negotiated;
 - (ii) attorneys with whom the applicant has had a substantial professional interaction within the previous two years;
 - (iii) judges assigned to cases in which the applicant has appeared as an attorney; and
 - (iv) judges who know the applicant.
 - (b) if the applicant is an attorney engaged in a non-adversarial practice:
 - (i) attorneys with whom the applicant has had a substantial professional interaction within the previous two years; and
 - (ii) judges who know the applicant;
 - (c) if the applicant is a judge:
 - (i) attorneys with whom the applicant has had a substantial professional interaction within the previous two years;
 - (ii) judges who know the applicant; and
 - (iii) attorneys who represented parties in cases over which the applicant presided as judge.
- (4)(a) An application shall be submitted before the application deadline to be eligible for consideration.
- (b) An incomplete or partial application may not be considered by a commission.

R356-2-6. Pre-Screening of Applications.

(1) For all applicants who submitted a complete application within the application deadline, commission staff shall conduct a:

- (a) criminal history background check;
- (b) consumer credit check; and
- (c) review of Utah State Bar or Judicial Conduct Commission records to determine if the applicant has been the subject of a disciplinary action.

(2) Commission staff shall send a reference form to any references provided by an applicant.

R356-2-7. Initial Meeting of a Commission.

(1)(a) A commission meeting shall be set to review the applications of any applicants who meet the eligibility criteria established by the Utah Constitution and the Utah Code.

(b) Notice of the meeting's date, time, and location shall be posted on the Utah Public Notice website.

(2) At the meeting the commission shall:

- (a) allow any members of the public or the judiciary to provide comments; and
 - (b) consider any written comments submitted to CCJJ.
- (3) Following the public comment period, the commission shall close the meeting to:
- (a) discuss the applications submitted by eligible applicants;
 - (b) consider any potential conflicts of interest as provided in Section R356-2-10;
 - (c) choose which applicants will be invited to interview for the judicial vacancy.

R356-2-8. Conduct at Meetings and Interviews.

(1) The chair of the commission shall preside at all meetings and ensure that each commissioner has the opportunity to fully participate.

(2) Commission staff shall:

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- (a) take summary minutes of commission meetings which shall describe:
 - (i) the date, time and place of the meeting;
 - (ii) all commissioners present, absent, or excused;
 - (iii) commission staff present;
 - (iv) decisions made by the commissioners;
 - (v) any statements made by commissioners regarding a potential conflict;
 - (vi) the total tally of all votes, but not the vote of individual commissioners;
 - (vii) any written statements submitted to the commission; and
 - (viii) any other matter a commissioner asks to be included; and
- (b) perform any other tasks assigned by commissioners that are consistent with governing statutes and rules.
- (3) A commissioner may be removed from a commission and the governor shall appoint a replacement if commission staff finds that the commissioner has failed to follow applicable statutes or rules.

R356-2-9. Evaluation Criteria.

- (1) Commissioners shall have access to an applicant's complete application and any information gathered by commission staff during the prescreening process described in Section R356-2-6, including any references returned to CCJJ.
- (2) When determining which applicants to interview or certify to the governor, commissioners shall consider an applicants':
 - (a) integrity;
 - (b) legal knowledge and ability;
 - (c) professional experience;
 - (d) judicial temperament;
 - (e) work ethic;
 - (f) financial responsibility;
 - (g) public service;
 - (h) ability to perform the work of a judge; and
 - (i) impartiality.
- (3) When evaluating an applicant for a juvenile court vacancy, commissioners shall consider an applicants' interest in, understanding of, and experience with the issues and problems facing children and families.
- (4) When evaluating an applicant for an appellate court vacancy, commissions shall consider an applicants' ability to give and receive criticism of opinions and arguments without taking offense.
- (5) When deciding among applicants for any judicial vacancy whose qualifications, taken as a whole, appear in all other respects to be comparable, commissioners may consider the background and experience of an applicant in relation to the current composition of the bench for which the appointment is being made.
- (6) Unless otherwise provided by statute, commissioners on the district and juvenile court nominating commissions may not decline to interview an applicant or decline to nominate an applicant based primarily on the geographic location of the applicant's residence or the geographic location of the applicant's employment.

R356-2-10. Applicant Interviews.

- (1) During an interview, commissioners shall have the opportunity to ask an applicant questions.
- (2) Following the conclusion of the interviews, commissioners shall:
 - (a) discuss the qualifications of the applicants interviewed; and
 - (b) vote by written ballot which nominees to certify to the governor.

R356-2-11. Certifying the List of Nominees.

- (1) Once the commissioners have chosen the nominees who will be certified, commission staff shall provide a list of nominees to:
 - (a) the governor;
 - (b) the president of the Senate; and
 - (c) the Office of Legislative Research and General Counsel.
- (2) Commission staff shall provide the governor with a summary of each nominee's qualifications.

R356-2-12. Public Comment Period.

- (1) The governor's office shall issue a press release containing:
 - (a) the nominees' names; and
 - (b) information about how the public may submit comments about the nominees within the ten-day public comment period.
- (2) Information received during the public comment period shall be provided to the governor for the governor's consideration.

R356-2-13. Confidentiality of Records.

- (1) The following records are confidential and may not be released except as provided in this rule:
 - (a) an application for a judicial vacancy and any associated documentation, including information or references gathered by commission staff during the prescreening process;
 - (b) the names of any applicants who were not certified to the governor;
 - (c) commissioners' discussions during the closed portion of a commission meeting;

- (d) the summary minutes of commission meetings created by commission staff;
- (e) commissioners' written ballots;
- (f) summaries of nominees' qualifications prepared by commission staff; and
- (g) comments submitted by the public under Section R356-2-11.
- (2) The name of an applicant may be disclosed if necessary to make inquiries regarding an applicant's qualifications.

R356-2-14. Notice that a Judge is Removed or Intends to Resign or Retire.

The AOC shall immediately notify the governor and CCJJ when the AOC learns that a judge has:

- (1) submitted formal notice of intent to retire or resign;
- (2) been removed from office; or
- (3) otherwise vacated a judicial office.

KEY: judicial nominating commissions, judges

Date of Last Change: 2025[April 2, 2018]

Notice of Continuation: October 21, 2020

Authorizing, and Implemented or Interpreted Law: [~~78A-10-103(1)~~]78A-10a-201

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:

R414-49

Filing ID: 57033

Agency Information

1. Title catchline:	Health and Human Services, Integrated Healthcare	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 1433325	
City, state and zip:	Salt Lake City, UT 84114-3325	
Contact persons:		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R414-49. Dental, Oral, and Maxillofacial Surgeons and Orthodontia
3. Purpose of the new rule or reason for the change:
The purpose of this change is to implement, by rule, the availability of dental services to adult Medicaid members who are 21 years of age and older in accordance with Section 26B-3-208, and federal approval of a Medicaid waiver for the delivery of adult dental services.
4. Summary of the new rule or change:
This amendment provides dental services to adult Medicaid members who are 21 years of age and older through the University of Utah School of Dentistry statewide network and removes previous restrictions of available services. It also clarifies the scope of coverage for specific programs and makes other technical updates.

Fiscal Information

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

A) State budget:

The Department of Health and Human Services (Department) does not anticipate a fiscal impact to the state budget for services implemented through this filing, as these are federally-funded dental services for about 91,400 Medicaid members.

The University of Utah School of Dentistry statewide network is expected to pay between \$10 and \$500 per person for about 91,400 Medicaid members to receive dental services, with estimated payments of about \$4,371,400 in fiscal year 2025.

The allocation causing this rule change is only applicable to fiscal year 2025, so there is no estimate available for fiscal years 2026 or 2027, as reflected in the regulatory impact table. These costs include procedures for both alveoloplasty and vestibuloplasty.

There is no anticipated savings for this network as a result of this filing.

B) Local governments:

The Department does not anticipate any direct, measurable cost or savings to local governments as they neither fund nor provide dental services under the Medicaid program.

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

Small businesses may see revenue with the expansion of these services but are not anticipated to see a cost. There is, however, no current data to estimate how many dental visits a small business may receive or what types of services a small business may provide currently or in the future. The number of impacted small businesses may also change depending on the year and service applicability.

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

Non-small businesses may see revenue with the expansion of these services but are not anticipated to see a cost. There is, however, no current data to estimate how many dental visits a non-small business may receive or what types of services a non-small business may provide currently or in the future. The number of impacted non-small businesses may also change depending on the year and service applicability.

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

There is no anticipated cost to Medicaid providers or members, but there is a potential for increased revenue for providers and out-of-pocket savings.

However, this amount of savings is inestimable, as available services vary between each provider and needs for services vary between each member. These costs include procedures for both alveoloplasty and vestibuloplasty.

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

The University of Utah School of Dentistry statewide network is expected to pay between \$10 and \$500 per person for about 91,400 Medicaid members to receive dental services in fiscal year 2025. These costs include procedures for both alveoloplasty and vestibuloplasty.

There are no anticipated compliance costs for a Medicaid provider or member.

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	\$4,371,400	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$4,371,400	\$0	\$0
Fiscal Benefits	FY2025	FY2026	FY2027
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$(4,371,400)	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:
 The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information

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

Section 26B-1-213	Section 26B-3-108	Section 26B-3-208
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Public Notice Information

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

A) Comments will be accepted until:	03/17/2025
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9. This rule change MAY become effective on:	03/24/2025
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	01/30/2025
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R414. Health and Human Services, Integrated Healthcare.

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

R414-49-1. ~~Introduction~~ Authority and Purpose.

~~[The Medicaid Dental Program]~~(1) Sections 26B-1-213 and 26B-3-108 authorize this rule.

(2) This rule 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]~~Section 26B-3-208.

R414-49-2. Definitions.

~~[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:~~

~~] Terms used in this rule are defined in Rule R414-1. Additionally:~~

(1) "Anterior tooth" means tooth numbers:

- (a) 6 through 11;
- (b) 22 through 27;
- (c) C through H; and
- (d) M through R.

(2) "Dental services" whether furnished in ~~[the] a hospital, an~~ office, a ~~[hospital, a]~~skilled nursing facility, or ~~[elsewhere]~~anywhere else, means covered services performed within the scope of ~~[the] a~~ Medicaid-enrolled dental provider's license as defined in Title 58, Occupations and Professions.

(3) "Posterior tooth" means tooth numbers:

- (a) 1 through 5;

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- (b) 12 through 21;
- (c) 28 through 32;
- (d) A through B;
- (e) I through L; and
- (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]~~ a member who ~~[are]~~ is eligible under the EPSDT program and includes comprehensive and preventive health care services.

(1) Dental services ~~[are]~~ shall only be available ~~[only]~~ through ~~[an]~~ a Medicaid-enrolled dental provider that complies with relevant laws and policy.

(2) ~~[The following coverage and limitations apply.~~

~~_____ (a)]~~ Dental services ~~[are]~~ shall only be provided ~~[only]~~ within the parameters of generally accepted standards of dental practice and ~~[are]~~ may be subject to ~~[limitations and exclusions]~~ any limitation or exclusion established by Medicaid.

~~[(b)]~~ 3) Dental services ~~[are]~~ may be subject to ~~[limitations and exclusions]~~ any limitation or exclusion 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]~~ ~~_____ (4) Medicaid [Provider Manual. These limitations and exclusions are updated in the Medicaid Information Bulletin.~~

~~_____ (d) Medicaid reimburses]~~ shall reimburse up to one evaluation for ~~[one]~~ each member each day, even if more than one provider is involved from the same office or clinic. Medicaid ~~[does]~~ may not cover multiple exams for the same date of service.

~~[(e)]~~ 5) Medicaid includes in the global payment, and ~~[does]~~ may not reimburse separately, any denture adjustment[s] performed by the original provider within six months of a member receiving a denture.

~~[(f)]~~ 6) 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]~~ any remaining third molar[s] during the same procedure.

~~[(g)]~~ 7) Medicaid ~~[covers]~~ shall cover the treatment of a temporomandibular joint fracture[s] but ~~[does]~~ may not cover other temporomandibular joint treatments.

~~[(h) The]~~ 8) A laboratory or pathologist must submit ~~[claims]~~ a claim directly to Medicaid for payment of laboratory services.

~~[(3)]~~ 9) Medicaid ~~[does]~~ may 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 type of dental implant;~~
- ~~_____ (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) _____ (b) 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) _____ (c) dental implants;~~
- ~~_____ (d) extraction of primary teeth at or near the time of exfoliation, as evidenced by mobility or loosening of the teeth[.];~~
- ~~_____ (4) _____ (e) fixed bridges or pontics;~~
- ~~_____ (f) general anesthesia for removal of an erupted tooth;~~
- ~~_____ (g) house calls;~~
- ~~_____ (h) limited orthodontic treatment, including removable appliance therapies;~~
- ~~_____ (i) nitrous oxide analgesia;~~
- ~~_____ (j) occlusal appliances, habit control appliances, or interceptive orthodontic treatment;~~
- ~~_____ (k) oral sedation for behavior management;~~
- ~~_____ (l) osteotomies;~~
- ~~_____ (m) procedures such as arthroscopy, meniscectomy, or condylectomy;~~
- ~~_____ (n) pulpotomies or pulpectomies on permanent teeth, except in the case of an open apex;~~

- ~~_____ (o) removable appliances in conjunction with fixed banded treatment;~~
- ~~_____ (p) ridge augmentation;~~
- ~~_____ (q) temporary dentures or temporary stayplate partial dentures;~~
- ~~_____ (r) tooth transplantation;~~
- ~~_____ (s) treatment for temporomandibular joint syndrome, sequela, subluxation, or other therapies; and~~
- ~~_____ (t) services provided without prior authorization.~~

~~_____ (10) 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 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.

~~Dental services extend up to the end of the 12th month after pregnancy ends].~~
 This section defines the scope of dental services available to a pregnant member[s] who ~~[are]is~~ eligible for Traditional Medicaid[-].

- ~~_____ (1) Dental services [are]shall extend up to the end of the 12th month after pregnancy ends.~~
- ~~_____ (2) Dental services shall only be available [only]through an enrolled dental provider that complies with relevant laws and policy.~~
- ~~_____ (2) The following coverage and limitations apply.~~
- ~~_____ (a)3) Dental services [are]shall only be provided [only]within the parameters of generally accepted standards of dental practice and [are]may be subject to [limitations and exclusions]any limitation or exclusion established by Medicaid.~~
- ~~_____ (b)4) Dental services [are]may be subject to [limitations and exclusions]any limitation or exclusion 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 [Provider Manual. These limitations and exclusions are updated in the Medicaid Information Bulletin.~~
- ~~_____ (5) Medicaid [Provider Manual. These limitations and exclusions are updated in the Medicaid Information Bulletin.~~
- ~~_____ (d) Medicaid reimburses]shall reimburse up to one evaluation for [one]each member each day, even if more than one provider is involved from the same office or clinic. Medicaid [does]may not cover multiple exams for the same date of service.~~
- ~~_____ (e)6) Medicaid includes in the global payment, and [does]may not reimburse separately, any denture adjustment[s] performed by the original provider within six months of a member receiving a denture.~~
- ~~_____ (f)7) 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]any remaining third molar[s] during the same procedure.~~
- ~~_____ (g)8) Medicaid [covers]shall cover the treatment of a temporomandibular joint fracture[s] but [does]may not cover other temporomandibular joint treatments.~~
- ~~_____ (h) The]9) A laboratory or pathologist must submit [claims]a claim directly to Medicaid for payment of laboratory services.~~
- ~~_____ (3)10) Medicaid [does]may 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 type of dental implant;~~
 - ~~_____ (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) _____ (b) 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) _____ (c) dental implants;~~
 - ~~_____ (d) extraction of primary teeth at or near the time of exfoliation, as evidenced by mobility or loosening of the teeth[-];~~
 - ~~_____ (4) _____ (e) fixed bridges or pontics;~~
 - ~~_____ (f) general anesthesia for removal of an erupted tooth;~~
 - ~~_____ (g) house calls;~~
 - ~~_____ (h) limited orthodontic treatment, including removable appliance therapies;~~
 - ~~_____ (i) nitrous oxide analgesia;~~
 - ~~_____ (j) occlusal appliances, habit control appliances, or interceptive orthodontic treatment;~~

NOTICES OF PROPOSED RULES

- ~~_____ (k) oral sedation for behavior management;~~
- ~~_____ (l) osteotomies;~~
- ~~_____ (m) procedures such as arthroscopy, meniscectomy, or condylectomy;~~
- ~~_____ (n) pulpotomies or pulpectomies on permanent teeth, except in the case of an open apex;~~
- ~~_____ (o) removable appliances in conjunction with fixed banded treatment;~~
- ~~_____ (p) ridge augmentation;~~
- ~~_____ (q) temporary dentures or temporary stayplate partial dentures;~~
- ~~_____ (r) tooth transplantation;~~
- ~~_____ (s) treatment for temporomandibular joint syndrome, sequela, subluxation, or other therapies; and~~
- ~~_____ (t) services provided without prior authorization.~~

~~_____ (11) 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 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]~~ Adult Members 21 Years of Age and Older and Not Eligible on the Basis of Pregnancy.

~~This section defines the scope of dental services available to an adult member who is 21 years of age or older and not eligible on the basis of pregnancy.[blind or disabled members eligible for Traditional Medicaid who are 18 years of age or older, as defined in Subsection 1614(a), Social Security Act.]~~

~~_____ (1) 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:~~

~~_____ (f) _____ (2)(a) Dental services [are] shall only be available [only] through an enrolled dental provider that complies with relevant laws and policy.~~

~~(b) [A dental provider may] Dental services shall only [perform services to this population] be available 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 [3] Dental services [are] shall only be provided [only] within the parameters of generally accepted standards of dental practice and [are] may be subject to [limitations and exclusions] any limitation or exclusion established by Medicaid[;].~~

~~(b) dental [4] Dental services [are] may be subject to [limitations and exclusions] any limitation or exclusion of medical necessity and utilization control considerations or conditions[;].~~

~~[_____ (e) 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] _____ (5) Medicaid [Provider Manual, and are updated in the Medicaid Information Bulletin;~~

~~_____ (d) Medicaid reimburses [shall reimburse up to one evaluation for [one] each member each day, even if more than one provider is involved from the same office or clinic[;]. Medicaid may not cover multiple exams for the same date of service[;].~~

~~(e) [6] Medicaid includes in the global payment, and [does] may not reimburse separately, any denture adjustment[s] performed by the original provider within six months of a member receiving a denture[;].~~

~~(f) [7] Medicaid may cover third-molar extractions when at least one of the third molars has documented pathology that requires extraction[- and by]. By discretion, a provider may remove [the] any remaining third molar[s] during the same procedure;~~

~~(g) [8] Medicaid [covers] shall cover the treatment of a temporomandibular joint fracture[s;] but [does] may not cover other temporomandibular joint treatments[- and].~~

~~(h) a) [9] A laboratory or pathologist must submit [claims] a claim directly to Medicaid for payment of laboratory services.~~

~~[3] [10] Medicaid [does] may 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 type of dental implant;~~

~~_____ (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) _____ (a) 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) (b) dental implants;~~
- ~~_____ (c) 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 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. Services are authorized by a federal waiver of Medicaid requirements approved by the Centers for Medicare and Medicaid Services, and allowed under Section 1115, 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.~~
- ~~_____ (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) (d) fixed bridges or pontics;~~
- ~~_____ (c) general anesthesia for removal of an erupted tooth;~~
- ~~_____ (f) house calls;~~
- ~~_____ (g) limited orthodontic treatment, including removable appliance therapies;~~
- ~~_____ (h) nitrous oxide analgesia;~~
- ~~_____ (i) occlusal appliances, habit control appliances, or interceptive orthodontic treatment;~~
- ~~_____ (j) oral sedation for behavior management;~~
- ~~_____ (k) osteotomies;~~
- ~~_____ (l) procedures such as arthroscopy, meniscectomy, or condylectomy;~~
- ~~_____ (m) pulpotomies or pulpectomies on permanent teeth, except in the case of an open apex;~~
- ~~_____ (b) (n) removable appliances in conjunction with fixed [bridges] banded treatment;~~
- ~~_____ (o) ridge augmentation;~~
- ~~_____ (p) temporary dentures or [pontics] temporary stayplate partial dentures;~~
- ~~_____ (e) any type of dental implant;~~
- ~~_____ (d) (q) tooth transplantation;~~
- ~~_____ (e) ridge augmentation;~~
- ~~_____ (f) osteotomies;~~
- ~~_____ (g) vestibuloplasty;~~
- ~~_____ (h) alveoloplasty;~~
- ~~_____ (i) occlusal appliances, habit control appliances, or interceptive orthodontic treatment;~~
- ~~_____ (j) (r) treatment for temporomandibular joint syndrome, sequela, subluxation, or other therapies; and~~
- ~~_____ (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)] (s) 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;~~

NOTICES OF PROPOSED RULES

- ~~_____ (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.~~

]
R414-49-17. 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, 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 type of dental implant;~~
- ~~_____ (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]6. Emergency Dental.

~~_____ This section defines the scope of dental services available to members who are otherwise eligible under the Medicaid program.~~

- ~~_____ (1) [~~Dental~~]Emergency dental services [~~are~~]shall only be available [~~only~~]through [~~an~~]a Medicaid-enrolled dental provider that complies with relevant laws and policy.~~
- ~~_____ (2)[~~] The following coverage and limitations apply.~~~~
- ~~_____ (1)(a) [~~Emergency~~]An emergency dental [~~services are~~]service is 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.~~
- ~~_____ (b) An emergency dental service is limited to the treatment of:~~
- ~~_____ (i) a tooth eruption; or~~
- ~~_____ (ii) drainage of an abscess.~~

KEY: Medicaid
Date of Last Change: ~~October 28, 2024~~ 2025
Notice of Continuation: May 29, 2024
Authorizing, and Implemented or Interpreted Law: 26B-1-213; 26B-3-108; 26B-3-208

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: New		
Rule or Section Number:	R765-266	Filing ID: 57031

Agency Information

1. Title catchline:	Higher Education (Utah Board of), Administration	
Building:	Utah Board of Higher Education Building, The Gateway	
Street address:	60 S 400 W	
City, state:	Salt Lake City, UT 84101	
Contact persons:		
Name:	Phone:	Email:
Hilary Renshaw	801-646-4784	Hilary.renshaw@ushe.edu
Alison A. Adams	801-646-4784	Alison.adams@ushe.edu
Geoffrey T. Landward	801-646-4784	Glandward@ushe.edu
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R765-266. Higher Education Disclosures
3. Purpose of the new rule or reason for the change:
This rule has been authorized by Subsection 53B-1-112(5). The rule establishes procedures whereby Utah System of Higher Education institutions comply with certain disclosures required under Section 53B-1-112.
4. Summary of the new rule or change:
This rule replaces Rule R765-570 which will be repealed after this rule becomes effective, and it includes minor amendments to Rule R765-570. The amendments include: 1) updating the citations to the Utah Code to be more precise; 2) an amendment that changes required reports being posted on UtahFutures.org to the information being posted on the Utah System of Higher Education website; and 3) removing that the Board will review the relevance and usability of the data source every 24 months.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This rule does not impact the state budget. The original bill relating to these requirements, H.B. 100, Institutions of Higher Education Disclosure Requirements, did not report a fiscal impact. This new administrative rule, Rule R765-266, amends the text of Rule R765-570 with only minor changes. The changes to the new rule, including: 1) updating the citations to the Utah Code to be more precise;

2) an amendment that changes required reports being posted on UtahFutures.org to the information being posted on the Utah System of Higher Education website; and
 3) removing that the Board will review the relevance and usability of the data source every 24 months will not result in any fiscal impact.

B) Local governments:

This rule likely will not result in direct, measurable costs for local governments.

See the explanation in Box 5A above.

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

This rule likely will not result in direct, measurable costs for small businesses.

See the explanation in Box 5A above.

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

This rule likely will not result in direct, measurable costs for non-small businesses.

See the explanation in Box 5A above.

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 likely will not result in direct, measurable costs for other persons.

See the explanation in Box 5A 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 likely will not result in direct, measurable costs for affected persons.

See the explanation in Box 5A above.

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

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

H) Department head comments on fiscal impact and approval of regulatory impact analysis:
 The Utah Commissioner of Higher Education, Geoffrey Landward, has reviewed this regulatory impact analysis and determined this to be reasonable.

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 53B-1-112

Public Notice Information

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

A) Comments will be accepted until: 03/31/2025

9. This rule change MAY become effective on: 04/07/2025

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:	Alison Adams, Board Secretary and Designee	Date:	02/12/2025
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R765. Higher Education (Utah Board of), Administration.

R765-266. Utah System of Higher Education Disclosures.

R765-266-1. Purpose.

This rule establishes procedures whereby Utah System of Higher Education institutions comply with certain disclosures required under Section 53B-1-112.

R765-266-2. Authority.

This rule is authorized by Subsection 53B-1-112(5).

R765-266-3. Higher Education Disclosures.

(1) Each Utah System of Higher Education institution shall publish a direct link online with the information described in Section 53B-1-112 in accordance with the requirements in Subsection 53B-1-112(2)(b).

(2) The Board maintains static reports and dashboards that are located on the Board’s website to meet the requirements defined in Subsection 53B-1-112(3)(b).

(3) An institution may use other data services if they meet the requirements defined in Section 53B-1-112.

(4) To the extent possible, when collecting data in accordance with Subsection 53B-1-112(3)(a), the Board will use existing data services and partners deemed credible for purposes of this section.

KEY: education, disclosures

Date of Last Change: 2025

Authorizing, and Implemented or Interpreted Law: 53B-1-112

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment	
Rule or Section Number: R765-611	Filing ID: 57030

Agency Information

1. Title catchline:	Higher Education (Utah Board of), Administration
Building:	Utah Board of Higher Education Building, The Gateway
Street address:	60 S 400 W
City, state:	Salt Lake City, UT 84101

Contact persons:		
Name:	Phone:	Email:
Hilary Renshaw	801-646-4784	Hilary.rensahw@ushe.edu
Alison A. Adams	801-646-4784	Alison.adams@ushe.edu
Geoffrey T. Landward	801-646-4784	Glandward@ushe.edu
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R765-611. Veterans Tuition Gap Program
3. Purpose of the new rule or reason for the change:
The purpose of amendments to this rule is to make updates based on changes made to Sections 68-3-12.5 and 53B-8-102, which were prompted by S.B. 192 and S.B. 115 in the 2024 General Session.
4. Summary of the new rule or change:
These amendments update the allocation of program fund requirements based on Sections 68-3-12.5 and 53B-8-102 and state that the Board may annually distribute a minimum allocation to participating institutions that do not have enough eligible graduates to receive a meaningful allocation.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
Except as outlined below, this rule does not impact the state budget.
The fiscal note for S.B. 192 (2024) does not state a fiscal impact due to the changes of who qualifies for resident student status under Section 53B-8-102.
The fiscal note for S.B. 115 (2024) states that the enactment of S.B. 115 (2024) could reduce Dedicated Credits – Tuition Revenue by an average of \$13,200 per student per year to the extent that certain family members of service men and women temporarily stationed in Utah currently attend Utah higher education institutions.
The fiscal note also says that the legislation likely will not materially impact state expenditures. This impact is a result of the legislation and not the rule amendments.
B) Local governments:
This rule does not impact local governments.
The fiscal notes for S.B. 192 and S.B. 115 (2024) state that enactment of these bills likely will not result in direct, measurable costs for local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule does not impact small businesses.
The fiscal notes for S.B. 192 and S.B. 115 (2024) state that enactment of these bills likely will not materially impact small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This rule does not impact non-small businesses.
The fiscal notes for S.B. 192 and S.B. 115 (2024) state that enactment of these bills likely will not materially impact 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*):

Except as outlined below, this rule does not impact persons other than small businesses, non-small businesses, state, or local government entities.

The fiscal note for S.B. 192 (2024) states that enactment of these bill likely will not materially impact other persons.

The fiscal note for S.B. 115 (2024) states that students of service members temporarily stationed in Utah could save the difference between in-state and out-of-state tuition of approximately \$13,200 per student per year on average. This impact is a result of the legislation and not the rule amendments.

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

This rule does not generate compliance costs for affected persons.

The fiscal notes for S.B. 192 and S.B. 115 (2024) state that enactment of these bills likely will not generate material compliance costs.

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

Regulatory Impact Table

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

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

The Utah Commissioner of Higher Education, Geoffrey Landward, has reviewed this regulatory impact analysis and determined this to be reasonable.

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 68, Chapter 3, Part 12.5	Title 53B, Chapter 8, Part 102	
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Public Notice Information

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

A) Comments will be accepted until:	03/17/2025
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9. This rule change MAY become effective on:	03/24/2025
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Alison Adams, Board Secretary and Designee	Date:	12/20/2024
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R765. Higher Education (Utah Board of), Administration.

R765-611. Veterans Tuition Gap Program.

R765-611-1. Purpose.

The purpose of this rule is to provide the rules and procedures for implementing Title 53B, Chapter 13b, Veterans Tuition Gap Program Act.

R765-611-2. Authority.

Subsection 53B-13b-104(3)(c) authorizes this rule.

R765-611-3. Definitions.

- (1) "Board" means the Utah Board of Higher Education.
- (2) "Education-related supplies" means necessary supplies to complete required courses.
- (3) "Eligible housing allowance" means the amount established by each institution for housing.
- (4) "FAFSA" means the financial reporting form known as Free Application for Federal Student Aid that is administered by the U.S. Department of Education to determine the need and eligibility of a higher education student for financial aid.
- (5) "OCHE" means the Office of the Commissioner of Higher Education.
- (6) "VeT Gap" means Veterans Tuition Gap Program established under Section 53B-13b-103.

R765-611-4. Program Description and Length of Award Year.

- (1) VeT Gap may cover tuition, fees, books, education-related supplies, and a housing allowance at an eligible institution for veterans who are attending institutions of higher education in Utah and whose benefits under the federal program have been exhausted or are not available.
- (2) VeT Gap shall be available only to higher education institutions that grant bachelor's degrees.
- (3) OCHE shall determine the maximum amount for education-related supplies each year.
- (4) Based on available program funds, OCHE may establish a fixed cap for the housing allowance or a percentage of the equivalent housing allowance amount allowed under the GI Bill.
- (5) The award year for VeT Gap shall be the twelve-month period coinciding with the state fiscal year beginning July 1 and ending June 30.
- (6) An eligible student may receive a VeT Gap grant until:
 - (a) the eligible student completes the requirements for a bachelor's degree; or
 - (b) the eligible student receives an initial program grant for the maximum award amount set by the board.

R765-611-5. Availability of Program Funds.

- (1) Funds available for VeT Gap allocations to eligible institutions may come from specifically earmarked state appropriations, or from other sources such as private contributions.
- (2) To participate in VeT Gap, each eligible institution shall demonstrate its intention to continue participating in VeT Gap by submitting annually, by March 1st, to the program administrator a certification, subject to audit, of the total number of veterans who were resident students of the state under Section 53B-8-102 and Board Policy R512 who have graduated from the institution with a bachelor's degree in the most recently completed academic year.
- (3) An eligible institution's failure to submit the certification required in Subsection (2) by the requested date shall constitute an automatic decision by the eligible institution to not participate in the program for the next fiscal year.

R765-611-6. Allocation of Program Funds to Eligible Institutions.

- (1) ~~[Allocation of program funds to an]~~The Board shall annually distribute available funds to eligible institutions ~~[shall be]~~ based on the proportion of ~~[the]~~each institution's ~~[Utah resident]~~students who:
 - (a) ~~[*]~~Are Utah residents, as defined under Section 53B-8-102 and Board Policy R512, or exempt from paying the nonresident portion of total tuition under Section 53B-8-106.
 - (b) Are ~~[*]~~Veterans, as defined in Section 68-3-12.5 and Board Policy R512; and~~[who]~~
 - (c) ~~[g]~~Are graduates~~[d]~~ with a baccalaureate degree in the most recently completed academic year~~[when compared to the total population of such students in each of the other eligible institutions that are participating in VeT Gap that year].~~

(2) The Board may annually distribute a minimum allocation, to be set by the Office of the Commissioner of Higher Education scholarship staff, to participating institutions that do not have enough eligible graduates to receive a meaningful allocation.

(3[2]) The program administrator shall send official notification of each participating eligible institution's allocation to the institution's director of financial aid each fiscal year.

R765-611-7. Student Eligibility to Participate.

(1) To be eligible for assistance from VeT Gap funds, each student shall:

- (a) be a resident student of the state under Section 53B-8-102 and Board Policy R512, or exempt from paying the nonresident portion of total tuition under Section 53B-8-106;
- (b) be a veteran as defined by Section 68-3-12.5 and Board Policy R512;
- (c) be unconditionally admitted and currently enrolled in an eligible program leading to a bachelor's degree at an eligible institution;
- (d) maintain satisfactory academic progress, as defined by the institution, toward the degree in which the student is enrolled;
- (e) have exhausted the federal benefit under any veterans' educational assistance program or such benefits are unavailable;
- (f) have not completed a bachelor's degree;
- (g) be in the final year of the student's academic bachelor's program; and
- (h) have completed the FAFSA as required by Board Policy R623.

R765-611-8. Institutional Participation Agreement.

Each participating eligible institution shall enter into an institutional participation agreement with the program administrator or assigned designee and agree to abide by the program rules, accept and disburse funds per program rules, and keep documentation for the program to support the awards and actions taken.

R765-611-9. Use of Program Funds Received by an Eligible Institution.

(1) An eligible institution may at its discretion place up to, but in no case more than, 3.0% of the total amount of program funds allocated to it for the award year in a budget for student financial aid administrative expenses of the institution.

(2) If an eligible institution determines that it cannot use any portion of its VeT Gap allocation in an award year, the institution may return that portion of its allocation to the program administrator and the program administrator may redistribute the returned funds to other eligible institutions that it determines have unmet needs for that same award year.

(3) An eligible institution may not carry forward or carry back from one fiscal year to another any of its VeT Gap allocation for a fiscal year.

(4) OCHE may redistribute forfeited funds to other eligible institutions mid-year or as regular VeT Gap allocations the next award year.

(5) An eligible institution may establish processes to determine the distribution of funds to students so long as it does so in accordance with the provisions established in this rule.

R765-611-10. Determination of Awards to Eligible Students.

(1) Each eligible institution shall establish student cost of attendance budgets, in accordance with federal regulations applicable to student aid programs under Title IV of the Higher Education Act as amended, for specific student categories authorized in the federal regulations, and providing for the total of costs payable to the institution plus other direct educational expenses, transportation and living expenses.

(2) An eligible institution may not award VeT Gap funds to an eligible student in excess of the total amount of the student's tuition, fees, books, education-related supplies, and a housing allowance at an eligible institution for that academic year.

(3) Each eligible institution shall:

(a) award and package VeT Gap funds on an annual award year basis unless the remaining period of enrollment until completion of the academic program is less than one award year;

(b) pay VeT Gap funds one quarter or semester at a time or in thirds, if applicable to some other enrollment basis such as total months or total clock hours, contingent upon the student's maintaining satisfactory progress as defined by the institution in published policies or rules; and

(c) make each award under the program in accordance with the non-discrimination requirements of 34 C.F.R. Part 100.

(5) An eligible institution may not initially award program funds in amounts which, with Federal Direct, Federal Direct PLUS or Perkins Loans or other financial aid from any source, both need and merit-based, and with family and individual contributions, exceed the cost of attendance for the student at the institution for the award year.

(6) If, after the eligible student's financial aid has been packaged and awarded, the student later receives other financial assistance, such as, for example, merit or program-based scholarship aid or the student's cost of attendance budget changes, resulting in a later over-award of more than \$500, the eligible institution shall appropriately reduce the amount of financial aid disbursed to the student so that the total does not exceed the cost of attendance.

R765-611-11. Records, Retention and Cooperation in Program Reviews.

(1) Each eligible institution shall:

(a) cooperate with OCHE in providing records and information requested for any scheduled audits or program reviews; and

NOTICES OF PROPOSED RULES

(b) maintain records substantiating its compliance with all terms of the institutional participation agreement for three years after the end of the award year, or until completion of a program review and any exceptions raised in the review have been resolved, whichever occurs first.

(2) If at the end of the three-year retention period, an audit or program review exception is pending resolution, the institution shall keep records for the award year involved until the institution has resolved the exception.

R765-611-12. Reporting.

(1) As specified by OCHE, each institution shall provide, as part of an annual institutional financial aid file submission by February 28 of each year, data pertaining to applications, awards, program enrollments, utilization, funding, and other scholarship information for the most recently completed fiscal year.

(2) For each institution that does not participate in the annual institutional financial aid file submission, data shall be submitted directly to OCHE no later than June 30 each year.

(3) OCHE may, at any time, request additional documentation or data related to the scholarship program and may review or formally audit an institution's documentation and compliance with this rule.

KEY: financial aid, higher education, veterans benefits

Date of Last Change: 2025[February 14, 2024]

Notice of Continuation: May 27, 2020

Authorizing, and Implemented or Interpreted Law: 53B-13b-104(3); 53B-8-102; 53B-8-106; Pub. L. No. 110-252

End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at adminrules.utah.gov. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R68-10	Filing ID: 54513
Effective Date:	01/23/2025	

Agency Information

1. Title catchline:	Agriculture and Food, Plant Industry	
Building:	Taylorsville State Office Buildings, South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state	Taylorsville, UT	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	Phone:	Email:
Amber Brown	385-245-5222	Ambermbrown@Utah.gov
Kelly Pehrson	801-982-2200	Kwpehrson@Utah.gov
Rob Hougaard	801-982-2305	Rhougaard@Utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:	R68-10. Quarantine Pertaining to the European Corn Borer	
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:		
This rule is authorized under Subsection 4-2-103(1)(k), which grants the Department of Agriculture and Food (Department) the authority to establish and enforce quarantines and to issue and enforce orders and rules regarding pest eradication.		

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

This rule aligns with that authority and provides the information, requirements, and provisions pertaining to the European Corn Borer, a pest not known to occur in Utah. Through this rule, the Department prevents the pest from entering and infesting areas in the state.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department has not received public comments regarding continuing this rule within the last five years.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The European Corn Borer remains a significant threat to Utah's agricultural interests. This rule is necessary to maintain preventative measures that protect against the introduction and establishment of this destructive pest within the state. This rule safeguards our agricultural economy and ensures the ongoing viability of corn production in Utah. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Craig Buttars, Commissioner	Date:	01/23/2025
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R70-570	Filing ID: 55035
Effective Date:	01/23/2025	

Agency Information

1. Title catchline:	Agriculture and Food, Regulatory Services		
Building:	Taylorsville State Office Buildings, South Bldg, Floor 2		
Street address:	4315 S 2700 W		
City, state	Taylorsville, UT		
Mailing address:	PO Box 146500		
City, state and zip:	Salt Lake City, UT 84114-6500		
Contact persons:			
Name:	Phone:	Email:	
Amber Brown	385-245-5222	Ambermbrown@Utah.gov	
Kelly Pehrson	801-982-2200	Kwpehrson@Utah.gov	
Travis Waller	801-982-2200	Twall@Utah.gov	
Please address questions regarding information on this notice to the persons listed above.			

General Information

2. Rule catchline:
R70-570. Direct-to-Sale Farmers Market Signage
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 4-5a-103(3) explicitly grants the Department of Agriculture and Food (Department) the authority to make rules regarding signage at direct-to-sale farmers' markets. This provision mandates that these markets display signage informing consumers that homemade food products sold there have not undergone official safety inspections and help ensure effective communication to the consumer.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department has not received any public comment regarding this rule over the last five years.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule provides the signage requirements for homemade food products at farmers' markets to inform the final consumer that the homemade food that state or local authorities have not certified, licensed, regulated, or inspected. By having clear signage requirements, the consumer can make an informed purchase regarding the food they purchase.

This rule helps the Department meet the broad responsibility to help protect public health and consumer safety by ensuring transparency and informed decision-making at traditional farmers' markets. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Craig Buttars, Commissioner	Date:	01/23/2025
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R131-6	Filing ID:	56853
Effective Date:	01/23/2025		

Agency Information

1. Title catchline:	Capitol Preservation Board (State), Administration		
Building:	Utah State Capitol		
Street address:	350 N State Street		
City, state	Salt Lake City, UT 84114		
Mailing address:	PO Box 142110		
City, state and zip:	Salt Lake City, Utah 84114-2110		
Contact persons:			
Name:	Phone:	Email:	
Dana Jones	801-538-1189	danajones@utah.gov	
Please address questions regarding information on this notice to the persons listed above.			

General Information

2. Rule catchline:
R131-6. Board Designation of Space
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 63O-2-301(2) explicitly requires this rule.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments were received since the last five-year review of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Subsection 63O-2-301(2) explicitly requires this rule. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Dana Jones, Executive Director	Date:	01/16/2025
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R131-15	Filing ID:	56860
Effective Date:	01/23/2025		

Agency Information

1. Title catchline:	Capitol Preservation Board (State), Administration		
Building:	Utah State Capitol		
Street address:	350 N State Street		
City, state	Salt Lake City, UT 84114		
Mailing address:	PO Box 142110		
City, state and zip:	Salt Lake City, Utah 84114-2110		
Contact persons:			
Name:	Phone:	Email:	
Dana Jones	801-538-1189	danajones@utah.gov	
Please address questions regarding information on this notice to the persons listed above.			

General Information

2. Rule catchline:	R131-15. State Construction Contracts and Drug and Alcohol Testing
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:	Subsection 63G-6a-1303(4)(b) explicitly requires this rule.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:	No comments have been received since the last five-year review of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:	Subsection 63G-6a-1303(4)(b) explicitly requires this rule. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Dana Jones, Executive Director	Date:	01/16/2025
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R131-16	Filing ID:	50232
Effective Date:	01/23/2025		

Agency Information

1. Title catchline:	Capitol Preservation Board (State), Administration		
Building:	Utah State Capitol		

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Street address:	350 N State Street	
City, state	Salt Lake City, UT 84114	
Mailing address:	PO Box 142110	
City, state and zip:	Salt Lake City, Utah 84114-2110	
Contact persons:		
Name:	Phone:	Email:
Dana Jones	801-538-1189	danajones@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R131-16. Electronic Meetings
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 52-4-207(2) explicitly requires this rule.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments were received since the last five-year review of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Subsection 52-4-207(2) explicitly requires this rule. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Dana Jones, Executive Director	Date:	01/16/2025
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R895-5	Filing ID: 56833
Effective Date:	01/22/2025	

Agency Information

1. Title catchline:	Government Operations, Technology Services	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state	Taylorsville, UT	
Mailing address:	4315 S 2700 W.	
City, state and zip:	Taylorsville, UT 84129	
Contact persons:		
Name:	Phone:	Email:
Stephanie Weteling	435-720-5315	stephanie@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R895-5. Acquisition of Information Technology
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 issued by the Chief Information Officer under the authority of Sections 63A-16-205, 63A-16-204, and 63G-3-201.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received during and since the last five-year review of this rule from interested persons supporting or opposing 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 needed to identify the standards under which an agency of the executive branch must obtain approval from the Chief Information Officer before acquiring information technology and technology related services. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Marvin Dodge, Executive Director	Date:	01/22/2025
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R966-1	Filing ID: 52366
Effective Date:	01/21/2025	

Agency Information

1. Title catchline:	Treasurer, Unclaimed Property	
Building:	RC 1	
Street address:	168 N 1950 W, STE 102	
City, state	Salt Lake City, UT 84116	
Mailing address:	PO Box 140530	
City, state and zip:	Salt Lake City, UT 84114-0530	
Contact persons:		
Name:	Phone:	Email:
Dennis Johnston	801-707-6043	djohnston@utah.gov
Brandon Waite	801-645-3212	bwaite@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R966-1. Unclaimed Property Act Rules
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 67-4a-104 authorizes the unclaimed property administrator to enact rules implementing and administering Title 67, Chapter 4a.

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

This rule is also enacted under the provisions of Section 63G-4-203 which directs agencies to establish procedures for informal adjudicative proceedings by rule.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments were received so no summary is provided.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The Unclaimed Property Division (Division) still needs this rule to clarify what is not as clear in the Unclaimed Property Act as the Division desire. Therefore, this rule should be continued.

However, the Division will be seeking some statutory changes that may enable us to remove some of the sections once enacted.

Agency Authorization Information

Agency head or designee and title:	Dennis Johnston, Administrator	Date:	01/21/2025
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End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Agriculture and Food

Horse Racing Commission (Utah)
No. 56938 (Amendment) R52-7: Horse Racing
Published: 12/01/2024
Effective: 01/21/2025

Medical Cannabis and Industrial Hemp

No. 56965 (New Rule) R66-10: Closed-Door Medical Cannabis Pharmacy
Published: 12/15/2024
Effective: 01/23/2025

No. 56965 (Change in Proposed Rule) R66-10: Closed-Door Medical Cannabis Pharmacy
Published: 01/15/2025
Effective: 01/23/2025

No. 56966 (New Rule) R66-29: Compliance Procedures
Published: 12/15/2024
Effective: 01/23/2025

Commerce

Professional Licensing
No. 56929 (Amendment) R156-31b: Nurse Practice Act Rule
Published: 12/01/2024
Effective: 01/16/2025

Education

Administration
No. 56980 (Amendment) R277-113: LEA Fiscal and Auditing Policies
Published: 01/01/2025
Effective: 02/07/2025

No. 56981 (Amendment) R277-114: Response to Compliance and Related Issues
Published: 01/01/2025
Effective: 02/07/2025

No. 56982 (Amendment) R277-123: Process for Members of the Public to Report Violations of Statute and Board Rule
Published: 01/01/2025
Effective: 02/07/2025

No. 56983 (Amendment) R277-306: Educator Preparation Programs for School Psychologists, Audiologists, Speech-Language Pathologists, Speech-Language Technicians, Counselors, and School Social Workers
Published: 01/01/2025
Effective: 02/07/2025

No. 56984 (Amendment) R277-325: Public Education Exit and Engagement Surveys
Published: 01/01/2025
Effective: 02/07/2025

No. 56985 (Amendment) R277-419: Pupil Accounting
Published: 01/01/2025
Effective: 02/07/2025

No. 56986 (Amendment) R277-702: Procedures for the Utah High School Completion Diploma
Published: 01/01/2025
Effective: 02/07/2025

No. 56988 (New Rule) R277-722: Procedures for the Focused Graduation Pathway
Published: 01/01/2025
Effective: 02/07/2025

No. 56987 (Amendment) R277-927: Teacher and Student Success Act (TSSA) Program
Published: 01/01/2025
Effective: 02/07/2025

Environmental Quality

Air Quality

No. 56933 (Amendment) R307-110: Section X, Vehicle Inspection and Maintenance Program, Part F, Cache County
Published: 12/01/2024
Effective: 02/05/2025

Government Operations

Debt Collection

No. 56975 (Amendment) R21-3: Debt Collection Through Administrative Offset
Published: 01/01/2025
Effective: 02/07/2025

Facilities Construction and Management

No. 56955 (Amendment) R23-21: Division of Facilities Construction and Management Procedures for Leases, Purchases, and Exchanges of Real Property
Published: 12/15/2024
Effective: 01/22/2025

Governor

Criminal and Juvenile Justice (State Commission on)

No. 56969 (Amendment) R356-8: Designation of Commission Duties
Published: 12/15/2024
Effective: 01/21/2025

No. 56970 (New Rule) R356-12: Public Safety Portal Data Reporting
Published: 01/01/2025
Effective: 02/07/2025

Health and Human Services

Data, Systems and Evaluation, Research and Evaluation, Health Care Statistics

No. 56890 (Amendment) R428-2: Health Data Authority Standards for Health Data
Published: 11/15/2024
Effective: 01/27/2025

NOTICES OF RULE EFFECTIVE DATES

No. 56864 (Repeal) R428-5: Appeal and Adjudicative Proceedings
Published: 11/15/2024
Effective: 01/15/2025

No. 56866 (Amendment) R428-10: Health Data Authority Healthcare Facility Data Reporting Rule
Published: 11/15/2024
Effective: 01/15/2025

No. 56925 (Amendment) R428-12: Health Data Authority Survey of Enrollees in Health Plans
Published: 11/15/2024
Effective: 01/15/2025

No. 56923 (Amendment) R428-13: Health Data Authority. Audit and Reporting of Health Plan Performance Measures
Published: 11/15/2024
Effective: 01/16/2025

No. 56922 (Amendment) R428-15: Health Data Authority Health Insurance Claims Reporting
Published: 11/15/2024
Effective: 01/15/2025

Data, Systems and Evaluation, Vital Records and Statistics

No. 56924 (Amendment) R436-3: Amendments and Corrections to Vital Records
Published: 11/15/2024
Effective: 01/15/2025

Human Services Program Licensing

No. 56882 (Amendment) R501-12: Foster Care Services
Published: 11/15/2024
Effective: 02/10/2025

No. 56869 (Amendment) R501-19: Residential Treatment Programs
Published: 11/15/2024
Effective: 02/10/2025

Substance Use and Mental Health

No. 56926 (Repeal and Reenact) R523-7: Certification of Designated Examiners and Certified Case Managers
Published: 11/15/2024
Effective: 01/27/2025

Recovery Services

No. 56865 (Repeal) R527-601: Establishing or Modifying an Administrative Award for Child Support
Published: 11/15/2024
Effective: 01/15/2025

Juvenile Justice and Youth Services

No. 56881 (New Rule) R547-16: Income and Finances for Minors in Custody
Published: 11/15/2024
Effective: 01/27/2025

Higher Education (Utah Board of)

Salt Lake Community College
No. 56835 (Amendment) R784-4: Student Due Process
Published: 11/01/2024
Effective: 01/27/2025

Insurance

Title and Escrow Commission
No. 56961 (Amendment) R592-11: Title Insurance Producer Annual Reports
Published: 12/15/2024
Effective: 01/22/2025

Natural Resources

Outdoor Recreation

No. 56937 (Amendment) R650-302: Utah Outdoor Recreation Infrastructure Grant

Published: 12/01/2024

Effective: 01/22/2025

No. 56951 (New Rule) R650-305: Private Funding for Maintenance of Outdoor Recreation Facilities

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Forestry, Fire and State Lands

No. 56959 (New Rule) R652-125: Wildland-Urban Interface Prevention, Preparedness, and Mitigation Fund

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Wildlife Resources

No. 56991 (Amendment) R657-5: Taking Big Game

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No. 56989 (Amendment) R657-45: Wildlife License, Permit, and Certificate of Registration Forms and Terms

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No. 56990 (Amendment) R657-62: Drawing Application Procedures

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Public Safety

Administration

No. 56952 (Amendment) R698-7: Emergency Vehicles

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Highway Patrol

No. 56968 (Amendment) R714-510: 24-7 Sobriety Program

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No. 56953 (Amendment) R714-562: Early Intervention System Grant Program

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Criminal Investigations and Technical Services, Criminal Identification

No. 56974 (Amendment) R722-310: Regulation of Bail Bond Recovery and Enforcement Agents

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No. 56973 (Amendment) R722-330: Licensing of Private Investigators

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Transportation

Administration

No. 56958 (Amendment) R907-33: Department of Transportation Procurement Rules

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No. 56956 (Amendment) R907-63: Loss Recovery Procedure for Damaged Property

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NOTICES OF RULE EFFECTIVE DATES

Operations, Aeronautics

No. 56954 (New Rule) R914-5: Advanced Air Mobility Aircraft Registration

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Operations, Construction

No. 56960 (Amendment) R916-5: Health Insurance Coverage in State Contracts Implementation

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Operations, Maintenance

No. 56957 (Amendment) R918-7: Highway Sponsorship Programs

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End of the Notices of Rule Effective Dates Section