

UTAH STATE BULLETIN

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

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

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

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

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

Office of Administrative Rules, Salt Lake City 84114

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Utah state bulletin.

Semimonthly.

1. Delegated legislation--Utah--Periodicals. 2. Administrative procedure--Utah--Periodicals.
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EXECUTIVE DOCUMENTS

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

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

EXECUTIVE ORDER 2025-03

Strengthening Wildfire Preparedness

WHEREAS, Utah is at risk of wildfires throughout the year;

WHEREAS, Utah's low soil moisture can create conditions favorable for wildfires;

WHEREAS, unpredictable factors such as weather can impact fire activity and may cause the rapid growth of wildfires;

WHEREAS, wildfires often come with post-fire risks of flooding and debris flows;

WHEREAS, despite increasingly difficult conditions, Utah's Fire Sense campaign helped reduce the number of human-caused wildfires in the state by almost 75% from 2020-2023;

WHEREAS, the bravery and commitment of Utah's state, local, and federal firefighters helps to keep our communities and natural resources safe;

WHEREAS, the Utah Legislature routinely adopts modern fire codes to ensure our buildings meet applicable fire protection standards;

WHEREAS, Utah's Post Wildfire Mitigation Team supports communities after wildfires to mitigate future impacts related to burn scars;

WHEREAS, increased engagement between state and local partners on wildfire management will help defend our communities from the threat of wildfires;

WHEREAS, there is always room to improve our state's wildfire prevention and mitigation efforts;

WHEREAS, identifying key areas for the state to focus on will give the state a path forward to prevent wildfires;

NOW, THEREFORE, I, Spencer J. Cox, governor of the state of Utah, by the authority vested in me by the Constitution and laws of this state, hereby order the following:

1. Purpose of Order. The purpose of this order is to strengthen the state's wildfire management and coordination to better prepare the state against risks of wildfire.

2. Creation of Working Group on Wildfire Management.

a. This order establishes a Working Group on Wildfire Management ("Working Group").

- b. The Working Group consists of the following members:
 - i. the executive director of the Department of Natural Resources;
 - ii. the director/state forester of the Division of Forestry, Fire and State Lands;
 - iii. the state fire management officer;
 - iv. the commissioner of the Department of Public Safety;
 - v. the director of the Division of Emergency Management; and
 - vi. the state fire marshal.
- c. The Working Group shall create a report ("Report") for the governor's consideration to fulfill the purpose in Paragraph 1 of this order.
- d. The Working Group may consult with local fire departments and other local government entities in preparing the report.
- e. The Working Group shall deliver the Report to the governor by June 1, 2025.

3. Contents of Report.

- a. The Report created by the Working Group shall discuss and provide recommendations concerning the following:
 - i. issues of greatest concern in a large scale wildfire incident;
 - ii. coordination with local, federal, and private partners, including approaches to mitigate hazardous fuels on federal lands;
 - iii. priority areas for hazardous fuel reduction;
 - iv. state supported evacuation planning;
 - v. preparing and coordinating on public messaging;
 - vi. wildfire prevention and preparedness education;
 - vii. recruitment and retention of firefighters;
 - viii. community planning that helps identify key values and ways to mitigate fire risk;
 - ix. fuels treatments on public and private lands in and around communities to reduce hazardous fuels and create fuel breaks;
 - x. the availability of and readiness of firefighting infrastructure, including water supply available for firefighting activities;
 - xi. defensible space around state buildings and schools; and
 - xii. any other information as determined by the Working Group.

4. Recommendations to the Public.

- a. To prepare for this year's fire season, I recommend that Utah residents:
 - i. have an emergency supply kit, make a plan, be informed;
 - ii. review Utah's Fire Sense and Be Ready Utah preparedness campaigns;
 - iii. sign up to receive local emergency alerts;
 - iv. review and understand insurance coverage;
 - v. know evacuation routes;
 - vi. include pets and other animals in emergency planning;
 - vii. gather and protect important documents;
 - viii. create defensible space around real property;
 - ix. make sure fire hydrants near real property are accessible during all times of the year; and
 - x. maintain, update, and test smoke detectors and fire suppression systems.

THIS ORDER is effective immediately and shall expire on June 1, 2025.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 21st day of April, 2025.

(State Seal)

Spencer J. Cox
Governor, State of Utah

ATTEST:

Deidre M. Henderson
Lieutenant Governor, State of Utah

**EXECUTIVE ORDER
2025-04**

Declaring a State of Emergency in Certain Counties Due to Drought Conditions

WHEREAS, 13 counties in the state are in extreme or severe drought categories according to the U.S. Drought Monitor (Washington, Iron, San Juan, Kane, Juab, Emery, Grand, Beaver, Garfield, Piute, Millard, Tooele, and Uintah);

WHEREAS, four counties in the state are at risk of drought due to Snow Water Equivalents below 50%, streamflow forecasts below 50%, or being surrounded by counties in severe drought (Carbon, Sevier, Sanpete, and Wayne);

WHEREAS, drought has impacted the southern part of the state 8 of the last 10 years;

WHEREAS, the April peak of snowpack was approximately 44% of normal in southwestern Utah and average winter temperatures were two degrees higher than normal;

WHEREAS, water supply forecasts are below 30% for southwestern Utah;

WHEREAS, these extreme drought conditions have adversely and significantly impacted agribusiness and livestock production, as well as wildlife and natural habitats;

WHEREAS, drought conditions can adversely impact drinking water supplies and increase the number of drinking water emergencies requiring boil orders or Do Not Drink orders;

WHEREAS, increased recreation in dry vegetative conditions has contributed to an increased and prolonged threat of wildfire across the southern part of the state;

WHEREAS, drought conditions that require mitigation are expected to persist and possibly extend to adjacent areas;

WHEREAS, these conditions create a state of emergency under the Disaster Response and Recovery Act found in Title 53, Chapter 2a of the Utah Code;

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

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary for the purpose of securing compliance with orders made pursuant to the Disaster Response and Recovery Act;

NOW, THEREFORE, I, Spencer J. Cox, Governor of the State of Utah, declare a state of emergency due to the aforesaid circumstances in the counties listed above and hereby order the following:

1. The state Emergency Operations Plan is activated.
2. The state Drought Response Committee shall:
 - a. review hardships and other circumstances caused by the drought;
 - b. identify and recommend action to meet those needs; and
 - c. ensure inter-agency coordination in addressing those needs.
3. State agency requirements:
 - a. follow current requirements as outlined in Executive Order 2023-07; and
 - b. as required in Utah Code § 63-5b-1108(5)(a), follow the Division of Water Resources' weekly watering guide:

<https://conservewater.utah.gov/weekly-lawn-watering-guide/>; and

I further make the following recommendations:

1. Water suppliers and irrigation companies should:
 - a. encourage efficient landscape watering; and
 - b. as needed, contact the Division of Water Resources for assistance with developing a local drought response plan.
2. Impacted cities and counties should consider developing and implementing water restriction plans and take other steps to promote water conservation for the upcoming irrigation season in order to protect drinking water supplies.
3. Residents should:
 - a. reduce outdoor water use and waste;
 - b. fix irrigation leak and inefficiencies;

EXECUTIVE DOCUMENTS

- c. convert unnecessary turf areas to waterwise landscapes with drip irrigation;
- d. consider purchasing a smart-timer controller or low flow toilet (rebates are offered at utahwatersavers.com); and
- e. reduce indoor water use by fixing leaks.

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

(State Seal)

IN WITNESS, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done on this, the 24th day of April, 2025.

Spencer J. Cox
Governor

ATTEST:

Deidre M. Henderson
Lieutenant Governor

EXECUTIVE ORDER
2025-05

Expanding Government Efficiency to Best Serve Utahns

WHEREAS, Utah has consistently been recognized as the best-managed state in the nation, and continually strives to provide Utahns the best service;

WHEREAS, the state of Utah is entering an increasingly resource constrained environment;

WHEREAS, state employees strive to efficiently provide high quality services, mitigate risk, and deliver broad benefits to Utahns;

WHEREAS, the state has developed public metrics (performance.utah.gov) to transparently track government agencies' spending and outcomes;

WHEREAS, the state is expanding its Efficiency and Process Improvement Committee (EPIC), currently composed of four representatives from state agencies, to a broader collaborative that engages operational excellence professionals across the state;

WHEREAS, the state's customer experience initiative is proactively collecting feedback from Utahns to enhance the delivery of government services;

WHEREAS, every government agency has developed a strategic plan that outlines its goals and top priorities;

WHEREAS, the executive branch constantly strives to evaluate government processes to save costs, time, and improve services;

NOW, THEREFORE, I, Spencer J. Cox, governor of the state of Utah, by the authority vested in me by the Constitution and laws of this state, do hereby order the following:

Purpose. The purposes of this Executive Order are to:

1. Establish Government Reform, Innovation & Transparency (GRIT) to drive improvements across state government;

2. Empower state employees to work with their respective agencies in generating and implementing ideas to improve government;
3. Identify other ways to coordinate and enhance existing efforts related to state government efficiency and process improvement activities; and
4. Provide Utahns with access to transparent and measurable improvement outcomes, such as cost-savings, time-savings, improved service delivery, and return on investment.

Application. This order applies to all state agencies, as defined below.

Definitions. As used in this order:

1. Definitions. As used in this order:
 - a. "Agency"
 - i. Includes:
 1. a department, division, office, bureau, or other organization within the state executive branch, including the State Tax Commission, the National Guard, and the Board of Pardons and Parole; and
 - ii. does not include:
 1. an institution of higher education;
 2. the Utah Board of Higher Education;
 3. the State Board of Education;
 4. an independent entity as defined in Utah Code § 63E-1-102;
 5. the Attorney General's Office;
 6. the State Auditor's Office;
 7. the State Treasurer's Office;
 8. the Legislative Branch; or
 9. the Judicial Branch.
 - b. "Improvement project" means a project recommended to GOPB that is intended to achieve:
 - a. Cost-savings;
 - b. Time-savings;
 - c. Enhanced service delivery;
 - d. Improved performance measure outcomes;
 - e. Solutions to real or perceived concerns identified through customer experience feedback;
 - f. An efficiency evaluation as defined in [63J-1-904](#); or
 - g. Remedies to issues identified by external or internal audits.

Government Reform, Innovation & Transparency (GRIT).

1. This order hereby establishes an initiative (GRIT) to improve state government by:
 - a. Calling on state employees and agencies to internally identify and bring about cost-savings, time-savings, and service improvements;
 - b. Requiring state agencies to submit improvement project proposals to GOPB so processes can be evaluated and improved in accordance with Utah Code § [63J-1-904](#);
 - c. Requiring agencies to evaluate performance metrics to ensure they align with the agency's respective strategic plan; and
 - d. Ensuring every state agency is part of EPIC and the Customer Experience initiative.

Efficiency and Process Improvement Collaborative (EPIC).

1. GOPB shall establish a collaborative comprised of at least:
 - a. A representative of GOPB;
 - b. A representative from each state agency (to be determined by each agency); and
 - c. Representatives from other governmental entities invited to join the collaborative.
2. Members of the collaborative will meet regularly to:
 - a. Teach and learn from peers regarding efficiency and process improvement practices;
 - b. Share best practices in efficiency and process improvement activities; and
 - c. Collaborate with peers to overcome constraints or challenges.

Governor's Office of Planning and Budget.

1. GOPB will work with agencies to collect improvement project proposals, select and prioritize projects, conduct evaluations, and measure the results of those projects.

State Agencies.

State agencies shall:

1. Establish a culture that empowers employees to improve state government;

EXECUTIVE DOCUMENTS

2. Identify an agency representative to participate in EPIC as its primary operational excellence point of contact;
3. Recommend an improvement project no later than July 1, 2025, to be conducted by GOPB in accordance with Utah Code § [63J-1-904](#);
- a. Collaboratively participate in an improvement project to the fullest extent possible;
4. Identify and independently work on at least one improvement project per division, office, bureau, or program and provide a list of those projects to the respective Department Cabinet head once they are developed;
- a. Establish metrics to track return on investment, improved service delivery, or savings in cost and time; and
- b. Report results to GOPB.

THIS ORDER is effective immediately and shall remain in effect until January 19, 2029.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done on this, the 9th day of May, 2025.

(State Seal)

Spencer J. Cox
Governor, State of Utah

ATTEST:

Deidre M. Henderson
Lieutenant Governor, State of Utah

End of the Executive Documents Section

NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between April 16, 2025, 12:00 a.m., and May 01, 2025, 11:59 p.m. are included in this, the May 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 June 16, 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 September 12, 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:** Amendment**Rule or Section Number:****R58-6****Filing ID: 57132****Agency Information**

1. Title catchline:		Agriculture and Food, Animal Industry
Building:		Taylorsville State Office Building, 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:
Kelly Pehrson	801-982-2200	kwpehrson@utah.gov
Amber Brown	385-245-5222	ambermbrown@utah.gov
Amanda Price	801-386-4189	amandaprice@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R58-6. Poultry and Captive-Raised Gamebirds
3. Purpose of the new rule or reason for the change:
<p>The revisions to this rule are necessary to update requirements, enhance clarity, and ensure effective disease prevention and control. By refining definitions, modifying licensing requirements, and specifying standards for facilities and markets, the changes aim to better protect poultry and gamebird populations from disease outbreaks.</p> <p>These updates also align with current industry practices and federal standards, particularly the National Poultry Improvement Plan (NPIP), ensuring consistency and compliance. Ultimately, the changes seek to streamline processes, improve record-keeping, and provide clearer guidance to stakeholders involved in the production and sale of poultry and gamebirds in Utah.</p>
4. Summary of the new rule or change:
<p>This amendment to this rule provides a few changes that enhance clarity for the requirements and align the information with UDWR requirements.</p> <p>The purpose of this rule is clarified to focus on disease prevention and control.</p> <p>Definitions are updated, with "Avian influenza" narrowed and "Commercial gamebird facility" specified.</p> <p>Key changes include revised licensing requirements for poultry dealers and hatcheries, now with exemptions for smaller operations and record-keeping, especially for gamebird sales. Commercial gamebird facilities now require annual licensing and inspections with NPIP certification.</p> <p>Further changes involve clarifying importation and quarantine procedures, establishing standards for live bird markets, and emphasizing compliance with the NPIP. Notably, poultry dealers are restricted from selling gamebirds or wild turkeys, and hatchery sales of gamebirds require detailed buyer information and authorization.</p>

Fiscal Information**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

The state budget anticipates minimal fiscal impact from updating these requirements. During the 2025 General Session, the state included the Gamebird facility license fee in its fee schedule. The Department of Agriculture and Food (Department) will utilize the collected funds to cover anticipated staff costs associated with issuing licenses.

Currently, the Department projects collecting approximately \$4,500, which it will allocate to pay staff costs.

B) Local governments:

Local government's will not be impacted because they do not participate in or administer this program.

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

The Department anticipates small businesses budget will be impacted by these changes by about \$3,000 for the gamebird facility license fee.

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

The Department anticipates a non-small businesses budget will be impacted by about \$1,500 for the gamebird facility license fee.

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

Other persons will not be impacted by these changes because the Department does not issue licenses or permits to individuals for poultry or gamebirds.

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

The gamebird facility license is \$300.

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	\$3,000	\$3,000
Non-Small Businesses	\$0	\$1,500	\$1,500
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$4,500	\$4,500
Fiscal Benefits	FY2025	FY2026	FY2027
State Government	\$0	\$4,500	\$4,500
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	\$4,500	\$4,500
Net Fiscal Benefits	\$0	\$0	\$0

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

The Interim Commissioner of the Department of Agriculture and Food, Kelly Pehrson, 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 4-31-119(1)(a)		
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Incorporations by Reference Information

7. Incorporations by Reference:

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

Official Title of Materials Incorporated (from title page)	National Poultry Improvement Plan
Publisher	United States Department of Agriculture
Issue Date	December 2019
Issue or Version	2019 Version

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:	06/17/2025
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9. This rule change MAY become effective on:	06/24/2025
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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:	Interim Commissioner, Kelly Pehrson	Date:	04/25/2025
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R58. Agriculture and Food, Animal Industry.

R58-6. Poultry and Captive-Raised Gamebirds.

R58-6-1. Authority.

~~[(1)]~~ Promulgated under the authority of Subsection 4-31-119(1)(a).

R58-6-2. Purpose.

~~[(2)]~~ This rule ~~[intends]~~ establishes procedures to prevent and control disease in poultry and captive-raised gamebirds in Utah.

R58-6-~~[2]~~3. Definitions.

(1) "Avian influenza", means an infection or disease of poultry, ~~gamebirds, and other bird species,~~ caused by ~~[viruses in the family Orthomyxoviridae, genus I] influenza type A virus, particularly those of the H5 and H7 subtypes~~~~[-A]~~.

(2) "Cleaning and disinfection" means to remove organic debris and treat with a product which is registered by the Environmental Protection Agency as to neutralize pathogens, by the specifications for use as shown on the label of each product.

(3) "Commercial gamebird facility" means a Department licensed facility ~~[licensed by the Department]~~ that houses, possesses or raises more than 1,000 gamebirds per year for longer than 60 days.

(4) "Dealer" means a person who engages~~[e]~~ in the business of purchasing hatching eggs~~[r]~~ or poultry,~~[-or gamebirds]~~ for immediate resale.

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

(6) "Exposed~~[-(Exposure)]~~" means contact with birds, equipment, personnel, supplies, or any article infected with, or contaminated by, communicable avian disease organisms.

~~(7) "Farmers market" means the same as defined in Subsection 4-5-102(6).~~

~~[(7)]~~ (8) "Flock" means any of the poultry or game~~[-]~~birds on one ~~[farm]~~ premises.

~~[(8)]~~ (9) "Gamebird" means any captive-raised animal identified as a "Pen-reared Gamebird" in Section R657-4-2.

~~[(9)]~~ (9) "Group/lot identification number (GIN)" means an identification number used to uniquely identify a "unit of animals" of the same species that are managed together as one group throughout the preharvest production chain.

(10) "Hatchery" means a facility that hatches eggs for commercial sale or provides the service for other operations.

(11) "Infected flock" means a flock in which an authorized laboratory has discovered one or more birds infected with an avian disease.

(12) "License" means a license issued by the Department to individuals that commercially produce or sell hatching eggs or live birds.

(13) "Live bird market" means a temporary facility or site ~~[that illegally receives live birds to be resold or slaughtered and sold on site]~~ where live birds are assembled and held for sale or slaughter, which may include a swap meet, flea market, or farmers market.

(14) "National Poultry Improvement Plan (NPIP)" means a cooperative industry, state, and federal program through which new diagnostic technology can be effectively applied to the improvement of poultry and poultry products.

~~[(15) "Person" means an individual, association, partnership, government agency, corporation, or any agent of the foregoing.]~~

(1~~[6]~~⁵) "Poultry" means:

(a) domesticated fowl, ~~that are bred for the primary purpose of producing eggs or meat, whether kept for production or exhibition,~~ including:

(i) chickens, ~~[turkeys,]~~ guineas, ~~[ratites, and]~~ and pigeons~~[-]~~;

(ii) ratites;

(iii) coturnix quail;

(iv) domestic waterfowl belonging to the order Anseriformes;

(v) non-wild subspecies of turkeys; or

(vi) other captive bred birds not listed in Subsection R657-4-2(2)(k) ~~[which are bred for the primary purposes of producing eggs or meat whether kept for production or exhibition].~~

(b) "Poultry" does not include the Pen-reared gamebird as defined in Section R657-4-2.

(1~~[7]~~⁶) "Public exhibition" means a public show of poultry ~~or gamebirds.~~

(1~~[8]~~⁷) "Pullorum - Typhoid" means a disease of poultry caused by Salmonella.

(1~~[9]~~⁸) "Ratite" means an ostrich, emu, rhea, or cassowary.

(19) "Swap meet" or "flea market" means the same as defined in Section 13-32-102.

(20) "Wild subspecies of turkey" means turkeys of the Eastern, Osceola or Florida, Rio Grande, Merriam, or Gould subspecies.

R58-6-4. National Poultry Improvement Plan (NPIP) Participation and Standards.

(1) The department is the official state agency for the NPIP and recognizes the NPIP as a critical cooperative federal-state-industry program that establishes national standards for poultry health.

(2) Any individuals and entities participating in the NPIP in Utah shall comply with the procedures specified in:

(a) Title 9 CFR 145-147; and

(b) the 2019 version of the NPIP program standards A-E, which are incorporated by reference.

R58-6-~~[3]~~⁵. Importation of Poultry, Gamebirds, or Hatching Eggs.

~~[(1) Any person importing poultry, gamebirds, and hatching eggs [being imported] into Utah [must] shall~~ meet the requirements found in Section R58-1-9.

R58-6-~~[4]~~⁶. Quarantine of Diseased Poultry and Gamebirds.

(1)(a) ~~If officials identify any infectious or contagious diseases, [T]the Commissioner or their designated agent may quarantine diseased or exposed poultry or gamebirds and issue a flock plan for disease management[~~, when any infectious or contagious diseases have been identified~~].~~

(~~[2]~~^b) The flock plan shall describe~~[s]~~ live bird management, site management, depopulation, disposal, testing, and cleaning and disinfection.

(~~[4]~~²) The quarantine shall be in effect until ~~[withdrawn by]~~ the Commissioner or their designated agent withdraws it.

R58-6-~~[5]~~⁷. Poultry ~~[and Gamebird]~~ Dealer License.

(1) To effectively control and prevent the spread of disease within poultry populations, the department shall:

(a) require ~~[Any]~~ each poultry ~~[or gamebird]~~ dealer to obtain a Poultry Dealer ~~[must be]~~ license~~[d by the Department]~~, annually; and.

(~~[2]~~^b) ~~exempts [I]individuals selling less than 1,000 hatching eggs or [birds] poultry per year[are exempt from licensure].~~

~~[(4) Each location in which poultry are sold must be licensed separately on an annual basis.]~~

(~~[5]~~²) ~~An[y person desiring a license]~~ applicant shall apply ~~[to the Department]~~ for a poultry dealer license:

(a) for each location they sell poultry;

(b) ~~[on]~~ using a department form; and

(c) pay ~~[a]~~ the fee based on the ~~[approved Department]~~ annual fee schedule.

(~~[6]~~³) A poultry dealer [L]licensee[s] [must] shall:

(a) maintain annual records of all poultry purchases and sales;

(b) keep ~~[records for the calendar year of purchases and sales. Sales records for gamebirds must include the buyer's name, physical address, and telephone number, as well as the number and types of eggs or gamebirds purchased.~~

(~~[7]~~^T) ~~[the area where the birds are [kept should be] housed clean and appropriate for the type and age of the poultry[-];~~

(~~[8]~~^c) ensure [Bird]poultry care and handling [should] conform to recognized husbandry practices~~[-];~~

(d) ~~[Birds should be]~~ house~~[d]~~ poultry to prevent the spread of illness to other birds or people~~[-];~~

(~~[9]~~^e) provide [AH]individuals purchasing birds [should receive]with written information on handling poultry safely to prevent human illness; and

(f) report any suspected contagious or infectious disease in their poultry to the department immediately.

(4) A poultry dealer licensee may not sell gamebird or wild subspecies of turkeys as defined in this rule.

R58-6-[6]8. Hatchery License.

- (1) The department shall require [H]hatcheries [must be licensed with the Department]to obtain a hatchery license annually.
- (2) The department may exempt [H]hatcheries processing less than 1,000 hatching eggs, gamebirds, or [birds]poultry per year [are exempt]from licensure.
- (3) An[y person desiring a license] applicant shall apply [to the Department]for a hatchery license:
 - (a) on a department form; and
 - (b) pay a fee based on the [approved Department]annual fee schedule.
- (4) A hatchery [L]licensee[s must] shall keep records or bill of sale [for the calendar year]of purchases, [or]sources, and sales of hatching eggs, poultry, and gamebirds each calendar year and maintain the records for a minimum of three years.
- (5) For sales of live gamebirds or gamebird eggs the [R]records or bill of sale [for gamebirds must]shall include:
 - (a) the hatchery license number;
 - (b) the date of transaction;
 - (c) [the buyer's name, physical address, and telephone number, as well as]the number and types of eggs or gamebirds purchased; and
 - (d) the buyer's information, including:
 - (i) name and address;
 - (ii) the physical location of birds, if different;
 - (iii) telephone number; and
 - (iv) documentation evidencing the buyer's legal authorization to possess or purchase gamebirds, which shall include:
 - (A) the Commercial Gamebird Facility License number; or
 - (B) the appropriate documentation required by DWR for legal possession or purchase of gamebirds per Rule R657-4.
- (6) To prevent the spread of disease and minimize the risk of disease transmission, a hatchery licensee shall:
 - ([5]a) keep [T]the area where the gamebirds or poultry are kept [should be]clean and appropriate for the type and age of the gamebirds or poultry[-];
 - ([6]b) ensure [B]bird care and handling [should]conform to recognized husbandry practices[-];
 - ([7]c) provide [A]individuals purchasing live gamebirds or poultry [should receive]written information on safe handling to prevent human illness[-]; and
 - (d) report any suspected contagious or infectious disease in their hatchery to the department immediately.

R58-6-[7]2. Commercial Gamebird Facility License[ies and Release of Gamebirds].

- (1) Private Aviculture — Gamebird facilities propagating less than 1,000 gamebirds per year are exempt from licensure through the Department but must have a Certificate of Registration with the Division of Wildlife Resources.]
- ([2]1) [Commercial Gamebird Propagation Facilities]To prevent the spread of disease among gamebird populations, the department shall:
 - (a) require [A]any commercial gamebird [propagation facilities]facility to obtain a [must be]license[d by the Department.] annually;
 - (b) exempt gamebird facilities that possess or propagate less than 1,000 gamebirds per year from licensure; and
 - (c) inspect each facility and grant approval before issuing a license.
- ([i]2) Each applicant for a license shall:
 - (a) apply on a [D]department-issued form; and
 - (b) pay the fee per the annual fee schedule.
- (ii) A complete facility inspection by the Department and approval shall be conducted before the issuing of a license.]
- ([iii]3) All licenses expire on June 30 in the year following the year of issuance.
- ([iv]4) The department shall complete [A]annual inspections and record reviews [must be completed]before re-licensure.
- ([b]5) A[H] Commercial Gamebird facility [facilities must]shall maintain NPIP certification as US Pullorum-Typhoid Clean,[-and conduct quarterly avian influenza monitoring performed by the Department] in accordance with the standards outlined in Section R58-6-4.
- ([e]6) Each [Licensees]licensee [must]shall keep records of each purchase or sale for three years[-of purchases or sources and sales-], including:
 - (a) [Records must include]the buyer [or source's]name[-];
 - (b) physical address, if different the buyer's;
 - (c) [and]telephone number[-]; and
 - (d) [as well as]the number and types of eggs or gamebirds.
- ([3]7) Any gamebird released into the wild shall comply with Division of Wildlife Resources Rule R657-4.

R58-6-[8]10. [Prohibition of]Standards for Live Bird[s] Markets.

- (1) The department restricts [L]live bird markets [are prohibited in Utah]to one vendor of birds per market location to reduce the spread of avian diseases in the state.
- (2) A live bird market may operate with more than one vendor of birds if the market contacts the state veterinarian and receives prior approval by demonstrating and maintaining adequate biosecurity measures that effectively prevent disease spread.

[R58-6-9. National Poultry Improvement Plan.

- (1) The Department is the Official State Agency for the National Poultry Improvement Plan.

~~(2) Participants must follow all procedures specified in Title 9 CFR 145-147 and the NPIP Program Standards (2019) which are incorporated by reference.]~~

KEY: disease control, NPIP, hatchery, poultry, gamebirds, license

Date of Last Change: ~~May 23, 2023~~ 2025

Notice of Continuation: December 28, 2021

Authorizing, and Implemented or Interpreted Law: 4-31-119

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:

R58-15

Filing ID: 57155

Agency Information

1. Title catchline:		Agriculture and Food, Animal Industry
Building:		Taylorsville State Office Building, 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:
Kelly Pehrson	801-982-2200	kwpehrson@utah.gov
Amber Brown	385-245-5222	ambermbrown@utah.gov
Leann Hunting	801-982-2200	leannhunting@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R58-15. Agricultural and Wildlife Damage Prevention
3. Purpose of the new rule or reason for the change:
During the 2025 General Session, HB 253 updated Section 4-23-107 to match current industry payment practices for predator control services, this filing updates this rule with the updated dates in statute.
4. Summary of the new rule or change:
This filing updates the January 1 dates to July 1 to reflect the program operating on a fiscal year instead of a calendar year.
It also updated the date for the Department of Agriculture and Food (Department) to send out the assessment form to September 1 instead of January 1, which will align with the updated statute effective 05/07/2025.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This amendment to this rule will not impact the state budget because the amounts of the program are not changing. The due dates are shifting in the year when the producer pays them. The Department collects the majority of this fee throughout the year and the updated dates move the dates to a few months earlier in the fiscal year which will not impact the overall state budget.
B) Local governments:
The amendment to this rule will not impact local governments because they do not administer this program.

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

This amendment to this rule will not impact a small businesses budget because the predator control fee amount is not changing. The updated dates only move the due date earlier in the year to align with the common industry practice of paying the fee.

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

This amendment to this rule will not impact non-small businesses because the predator control fee amount is not changing. The updated dates move the due date to align with when the non-small business usually pays the fee.

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

This amendment will not impact a person's budget because most people pay this fee at the time of inspection or throughout the year. The updated dates in the amendment align with the date a person usually pays the fee.

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

The compliance costs for this program 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 Interim Commissioner of the Department of Agriculture and Food, Kelly Pehrson, 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)	Subsection 4-23-105(1)	Section 4-23-107
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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:	06/17/2025
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9. This rule change MAY become effective on:	06/24/2025
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:	Interim Commissioner, Kelly Pehrson	Date:	04/29/2025
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R58. Agriculture and Food, Animal Industry.**R58-15. Agricultural and Wildlife Damage Prevention.****R58-15-1. Purpose and Authority.**

- (1) The authority of Subsections 4-2-103(1)(i), 4-23-105(1), and Section 4-23-107 promulgates this rule.
- (2) Title 4, Chapter 23, Agricultural and Wildlife Damage Prevention Act protects owners of livestock that are subject to an annual predator control fee under Section 4-23-107. This rule provides additional guidelines on the procedures for collecting that fee.

R58-15-2. Definitions.

The following definitions shall apply to the administration of this rule, along with the definitions listed in Section 4-23-103.

- (1) "Breeding Cattle" means breeding or raising cattle that reside on an agricultural property.
- (2) "Department" means Utah Department of Agriculture and Food.
- (3) "Depredation compensation" means fair market compensation for livestock lost to a predatory animal.
- (4) "Feedlot" means a confined dry-lot area for finished feeding livestock on concentrated feed with no facilities for pasturing or grazing.
- (5) "Predator Control Fee" means a fee imposed by the department to meet the annual expense of administering Title 4, Chapter 23, Agricultural and Wildlife Damage Prevention Act.

R58-15-3. Board Responsibilities.

- (1) Per Section 4-23-105, the board shall design policies regarding agricultural and wildlife damage prevention and shall maintain a copy of the policies with the department's director of animal industry and they shall include specific information for the following:
 - (a) the predator control program; and
 - (b) the methods for the prevention of damage including hunting, trapping, chemical toxicants, and the use of aircraft as required in Rule R58-25, Aerial Hunting Permits and Licenses.
- (3) Per Subsection 4-23-105(3)(b) the board may enter into a cooperative agreement to carry out board policies and will maintain a copy with the department. The agreement may include information related to:
 - (a) coordinating with federal agencies to protect livestock and property from predators;
 - (b) funding, disease management, and a plan of action regarding billable activities to protect crops and domestic livestock; or
 - (c) partnerships to maintain, protect, and benefit agriculture in the state.
- (4) Per Subsection 23A-11-402(2), on behalf of the board, the department shall annually coordinate with the Utah Division of Wildlife Resources (UWDR) to meet requirements and reduce duplication of predator control efforts.

R58-15-4. Annual Fee Collection Methods.

- (1) In accordance with Section 4-23-107, an animal owner interested in predator control shall pay an annual predator control fee for their owned animals.
- (2) The board shall determine on or before ~~January~~ July 1 of each year the amount of the predator control fees that the department may collect on each animal category.
- (3) A livestock producer interested in predator control shall pay applicable fees between January 1, 2025, through April 1, 2025, to be eligible for predator control services between July 1, 2025, and June 30, 2026. For subsequent years:
 - (a) the department shall mail predator control assessments by ~~January~~ September 1 of each year;
 - (b) the livestock producer shall pay the fee on or before ~~April~~ December 31 of each year;
 - (c) receipt of payment between ~~January~~ September 1 and ~~April~~ December 31 will determine the eligibility of services and depredation compensation for the following fiscal year that starts July 1 and ends the following June 30 after the department has received the appropriate fee amount; and
 - (d) the department may assess a late fee for eligible payments received between April 2 of each year and June 30 of the same year if a livestock producer chooses to be eligible for services starting July 1 of the same year and ending on June 30 of the following year.
- (4) The department may provide predator control services based on the department's fiscal year starting July 1 and ending June 30 of each year.
- (5) The department shall collect the fee to administer the agriculture and wildlife damage prevention policy, pay for marketing promotions, and maintain data to determine eligibility for depredation compensation per Rule R657-24 and Subsection 23A-8-201(3).
- (6) The department shall collect the predator control fee:
 - (a) from a fee imposed on brand inspected cattle when the brand inspector conducts a brand inspection per the requirements listed in Title 4, Chapter 24, Utah Livestock Brand and Anti-theft Act;
 - (b) within 30 days from a market that withheld proceeds from the sale of the cattle;

NOTICES OF PROPOSED RULES

(c) upon the sale of fleece on or before December 31 of each year or as agreed upon in the cooperative agreement listed in Subsection 4-23-107(4); or

(d) by issuing a Predator Control Assessment form on or before ~~January~~ September 1 of each year that a livestock owner shall return to the department by ~~April~~ December 31 of each year.

(7) The department may request a livestock producer provide the department with additional information on the Predator Control Assessment form, including:

(a) indicating a preference for paying applicable predator control fees;

(b) the name of the wool warehouse and the sold date of the wool; and

(c) a livestock assessment, which includes:

(i) type of animal;

(ii) number of animals; and

(iii) total fee amount.

(8) Per Section 4-23-109 and Rule R65-11, Utah Sheep Marketing Order, a portion of the collected wool fee may pay for the promotion, advancement, and protection of sheep interests in the state and shall meet the requirements listed in Rule R65-11.

(9) The department may exempt a livestock owner from paying a predator control fee for:

(a) livestock that an owner permanently confines all year within pens or corrals within incorporated city limits and a state or federal agency prohibits or severely restricts animal damage control activities;

(b) cattle that a commuter permit specifies;

(c) exemptions listed in Section 4-23-107, including feeder lambs and feedlot cattle permanently confined all year; or

(d) exemptions as listed in Title 4, Chapter 24, Utah Livestock Brand and Anti-theft Act.

(10) A producer not eligible for an exemption through Subsection R58-15-3(9) may request an exemption by:

(a) submitting a written request to the department on or before April 1; and

(b) may qualify for minimal levels of predator control services, per the agricultural and wildlife damage prevention policy, during the department's fiscal year starting July 1 and ending June 30 after the department approves the exemption.

KEY: administrative procedure, enforcement, livestock protection, predator control fee, damage prevention, collection methods

Date of Last Change: 2025[November 4, 2024]

Notice of Continuation: July 21, 2020

Authorizing, and Implemented or Interpreted Law: 4-2-103(1)(i); 4-23-107; 4-23-105(1); 23A-11-402(2)

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:

R65-11

Filing ID: 57131

Agency Information

1. Title catchline:	Agriculture and Food, Marketing and Development	
Building:	TSOB 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
Leann Hunting	385-977-2158	leannhunting@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R65-11. Utah Sheep Marketing Order

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

Changes to this rule are needed to implement changes that passed in HB 346, Department of Agriculture and Food Amendments, during the 2025 General Session.

4. Summary of the new rule or change:

The rule has been updated in Sections R65-11-2 and R65-11-5 to reflect that an annual audit of board records is not required and a financial review by an accountant is sufficient. This is consistent with current law in Section 4-2-103.

Fiscal Information**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

This change will not impact the state budget because it does not alter the Department of Agriculture and Food's (Department) administration of the Sheep Marketing Board.

B) Local governments:

Local governments do not administer or participate on the Sheep Marketing Board and will not be impacted by the changes.

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

Small businesses will not be impacted by the changes.

While there are small businesses that pay assessments to the Sheep Marketing Board, their assessments will not change, rather they will be able to be used for additional marketing activities due to the Board no longer having to pay for the cost of an audit each year.

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

Non-small businesses will not be impacted by the changes.

While there are non-small businesses that pay assessments to the Sheep Marketing Board, their assessments will not change, rather they will be able to be used for additional marketing activities due to the Board no longer having to pay for the cost of an audit each year.

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 Sheep Marketing Board will potentially be positively impacted by the change because they will no longer have to pay for an audit each year. This is estimated to save the Board approximately \$3,000 per year.

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

There are no compliance costs associated with the Sheep Marketing Board.

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

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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	\$3000	\$3000	\$3000
Total Fiscal Benefits	\$3,000	\$3,000	\$3,000
Net Fiscal Benefits	\$3,000	\$3,000	\$3,000
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Interim Commissioner of the Utah Department of Agriculture and Food, Kelly Pehrson, 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)	Subsection 4-2-103(1)(e)	

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:	06/17/2025

9. This rule change MAY become effective on:	06/24/2025
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:	Kelly Pehrson, Interim Commissioner	Date:	04/24/2025
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R65. Agriculture and Food, Marketing and Development.
R65-11. Utah Sheep Marketing Order.
R65-11-1. Purpose and Authority.

(1) Promulgated under the authority of Subsection 4-2-103(1)(e), which authorizes issuing marketing orders to promote orderly market conditions for agricultural products.

(2) This rule establishes a marketing order to assure an effective and coordinated program to maintain and expand the Utah sheep industry's market position, and that the producers shall be subject to the terms and provisions of the order.

R65-11-2. Definition of Terms.

(1) "Board" means the Sheep Marketing Board. The board ensures that proceeds from any assessments and any other funds directed to the board by the commissioner are placed in an account in the board's name in a depository institution, disburses the funds to promote the marketing of Utah sheep, or "marketing order" means the mechanism by which the assessment is levied. [annually audited by an independent auditor] reviewed by an account approved by the commissioner annually.

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

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

(4) "Handler" means an individual or an organization engaged in the merchandising of sheep or sheep products.

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

(6) (5) "Order" or "marketing order" means the mechanism by which the assessment is levied.

(7) (6) "Person" means any individual, group of individuals, partnership, corporation, association, cooperative, legal representative, or any other entity.

(8) (7) "Producer" means a person owning at least 100 rams, ewes, or lambs.

(9) (8) "Registered producers" means producers who have indicated that they want to be included in the marketing order voting process by registering to vote in the referendum. Registration forms may be mailed out with the ballots.

(10) (9) "Sheep" means rams, ewes, or lambs.

R65-11-3. Board.

- (1) The board shall consist of five members of the sheep industry, the commissioner, and a non-voting member representing higher education.
- (2) The original members of the board shall be selected by the commissioner from a list submitted by the industry.
- (3) Successors to original members shall be appointed by the commissioner from names submitted by the industry.
 - (a) Two members shall be appointed for three years.
 - (b) Three members shall be appointed for four years.
 - (c) After the first three years, each appointed member shall serve for four years.
 - (d) This rotation shall be in effect for the term of the marketing order.
 - (e) In the event of a vacancy, the commissioner shall appoint a new member from names submitted by the board.
- (4) Members of the board shall only succeed themselves once and not serve on the board for more than eight consecutive years.
- (5) The commissioner shall serve as chair of the board.
- (6) A majority of the board members, plus the chair, shall constitute a quorum. Each decision of the board shall be by majority vote.
- (7) Each member of the board may receive a per diem and expenses in accordance with Sections 63A-3-106 and 63A-3-107. No member of the board shall receive a salary.
- (8) With the commissioner's approval, the board may establish policies necessary and incidental to the administration of this rule.
- (9) The board shall meet at least quarterly.

R65-11-4. Duties of the Board.

- (1) The board shall:
 - (a) receive and spend funds collected for the benefit of Utah sheep producers;
 - (b) cooperate with any local, state, or national organization engaged in activities like those of the board;
 - (c) conduct educational programs and advertising to promote sheep and sheep products. Advertising and sales promotions to create new or larger markets for sheep and sheep products produced in Utah shall be directed toward increasing the sale of sheep and sheep products without reference to a brand or trade name; and
 - (e) engage in activities to promote the Utah sheep industry.
- (2) The board may:
 - (a) establish uniform grading and inspection of sheep products sold or offered for sale by producers or handlers and the establishment of grading standards of quality, conditions, and size;
 - (b) establish grading standards of quality, conditions, and size that are not below any minimum standards prescribed by law for the state; and
 - (c) conduct research projects to improve the profitability and general condition of the Utah sheep industry and to protect the health of the people of Utah.
- (3) Labeling, marketing, or branding sheep products shall not conflict with any department or state law rules.

R65-11-5. Expenses -- Assessments - Collection and Disbursement.

- (1) Pursuant to Subsection 4-23-109(1) Each producer subject to this rule may pay to the board a pro rata share of expenses as the commissioner may find necessary to be incurred by the board for the functioning of the marketing order. This assessment shall constitute a personal debt of every person so assessed and shall be due and payable upon the sale of wool.
- (2) The pro rata shares of the expenses payable by a cooperative association of producers shall be computed based on the quantity of the product covered by the order which is distributed, sold, or shipped in commerce by a cooperative association of producers.
- (3) When levied, the assessment of each producer shall be deducted from the producer's gross receipt by the wool purchaser or handler.
 - (a) Any proceeds the purchaser or handler receives from the deducted portion shall be paid at least quarterly to the board.
 - (b) Sheep spending part of the year in Utah shall be assessed pro rata based on the time spent in Utah.
- (4) The board shall reimburse the commissioner for any funds that are expended by the commissioner in performing their duties, as provided in Section R65-11-4. Reimbursement includes only funds expended in connection with this rule.
- (5) The board may incur expenses as are necessary to carry out its functions subject to the approval of the commissioner. The board shall receive and disburse any funds received by it pursuant to Section R65-11-5.
- (6) Any producer who wishes a refund of their paid assessment may request the refund by notifying the board in writing within 30 days of payment of the assessment.
 - (a) Each claim for a refund shall be approved by the board and paid from the board's account.
 - (b) A claim for a refund is not allowed if it is filed more than 30 days after the date the assessment is collected.
 - (c) The board shall notify the department each time a refund is requested and paid.
- (7) Assessments made and monies collected under this rule shall be divided into:
 - (a) assessments and funds for administrative purposes;
 - (b) educational purposes;
 - (c) advertising and promotional purposes; and
 - (d) research purposes.
 - (i) Assessments and funds shall be used solely for the purposes for which they are collected.
 - (ii) No funds shall be used for political or lobbying activities.

NOTICES OF PROPOSED RULES

(8) At the end of a fiscal year, if the funds collected are more than the expenses incurred, the board may carry over any excess portion into subsequent years as a reserve with the commissioner's approval.

(a) Reserve funds may be used to cover any expenses authorized by this rule and necessary expenses of liquidation if the order is terminated or the board is dissolved.

(b) Any excess not kept in reserve shall be refunded proportionately to the purchaser, handler, or producer from whom the excess was collected.

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

(9) The board shall have its financial records ~~[audited by an independent auditor]~~ reviewed by an accountant approved by the commissioner ~~[at least] once each fiscal year [and at any time the commissioner requests]~~. The annual ~~[audit]~~ review shall be completed and provided to the department's Administrative Services Division within 180 days of the end of each fiscal year.

(a) The ~~[audit]~~ review shall include an examination of the receipt of funds, the disbursement of funds, and any reimbursements, as well as a review of the board's financial documents, including bank statements, bank account reconciliations, and board meeting minutes.

(b) The board shall make copies of the ~~[audits]~~ reviews and financial statements after removing any confidential individual producer or processor information that may be contained in them, available to producers and processors for examination.

R65-11-6. Board - Member's Liability.

(1) No member of the board, nor any employee of the board, shall be deemed responsible individually in any way to any producer, distributor, handler, processor, or any other person, for errors of judgment, mistakes, or other acts, either of commission or omission of principal, agent, person, or employee, except for individual acts of dishonesty or crime.

(2) No person or employee shall be held responsible individually for any act or omission of any other member of the board. The liability of the members of the board shall be several and not joint, and no member shall be liable for the default of any other member.

R65-11-7. Complaints for Violations - Producer.

Complaints for violations of this rule shall be handled by the responsible legal agencies and shall be enforced in the civil courts of the state.

R65-11-8. Termination of Order- Proceeds After Termination.

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

(2) Upon the termination of the order, the then functioning members of the board shall, to liquidate the affairs of the board, continue as trustees of the funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at termination.

(3) The trustees shall:

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

(b) liquidate any property then in its possession;

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

(d) to the extent practicable, proportionally return funds to the persons from whom the funds were collected.

R65-11-9. Rights of the Commissioner.

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

(2) Each rule, decision, determination, or other act of the board shall be subject to the commissioner's veto at any time. Upon veto, the vetoed action of the board is considered void, except for acts done before the veto by the commissioner.

KEY: promotions

Date of Last Change: ~~June 22, 2023~~ 2025

Notice of Continuation: March 23, 2022

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

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING:

Rule or Section Number:

R66-1

Filing ID: 57125

Agency Information

1. Title catchline:	Agriculture and Food, Medical Cannabis and Industrial Hemp
Building:	TSOB South Building, Floor 2
Street address:	4315 S 2700 W
City, state:	Taylorsville, UT

Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	Phone:	Email:
Amber Brown	385-245-5222	ambermbrown@utah.gov
Brandon Forsyth	801-710-9945	bforsyth@utah.gov
Kelly Pehrson	385-977-2147	kwpehrson@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R66-1. Cannabis Cultivation
3. Purpose of the new rule or reason for the change:
The Department of Agriculture and Food (Department) is making these changes to implement legislative changes passed during the 2025 General Session in HB 54, as well as remove unnecessary language from this rule.
4. Summary of the new rule or change:
Language has been removed from this rule to remove overly specific requirements in favor of relying on guidance that is already in the statute in Title 4, Chapter 41a. This includes language related to licensing application requirements, facility requirements, security requirements, inventory control, transportation, and waste disposal.
In addition, language has been added in Section R66-1-9 to provide guidelines under which licensees can use irradiation to remediate cannabis.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The rule changes are not adding requirements or changing the Department's administration of the program, there should be no fiscal impact to the state.
B) Local governments:
Local governments do not participate in the cannabis program and will not be impacted by the changes.
C) Small businesses ("small business" means a business employing 1-49 persons):
Generally speaking, the rule changes are not adding requirements, just removing unnecessary language.
In Section R66-1-9, language is added to add requirements for using radiation to remediate cannabis. This is voluntary but would increase cost by approximately \$1,000 per year for any facility that participates.
The Department anticipates that one small business licensee will participate.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
Generally speaking, the rule changes are not adding requirements, just removing unnecessary language.
In Section R66-1-9, language is added to add requirements for using radiation to remediate cannabis. This is voluntary and the Department does not anticipate that any non-small businesses will participate.

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

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

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

Compliance costs are not changing because the department is not adding regulatory requirements.

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

Regulatory Impact Table			
Fiscal Cost	FY2025	FY2026	FY2027
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$1000	\$1000	\$1000
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$1,000	\$1,000	\$1,000
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	\$(1,000)	\$(1,000)	\$(1,000)

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

The Interim Commissioner of the Utah Department of Agriculture and Food, Kelly Pehrson, has reviewed and approved this regulatory impact analysis.

Citation Information

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

Section 4-41a-103	Section 4-41a-204	Section 4-41a-302
Section 4-41a-404	Section 4-41a-701	

Public Notice Information

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

A) Comments will be accepted until: 06/17/2025

9. This rule change MAY become effective on: 06/24/2025

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:	Kelly Pehrson, Interim Commissioner	Date:	04/30/2025
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R66. Agriculture and Food, Medical Cannabis and Industrial Hemp.**R66-1. Cannabis Cultivation.****R66-1-1. Authority and Purpose.**

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

R66-1-2. Definitions.

As used in this rule:

- (1) "Board" Means the Cannabis Production Establishment and Pharmacy Licensing Advisory Board created in Section 4-41a-201.1.
- ~~[(1) "Applicant" means any person or business entity who applies for a cannabis cultivation facility license.]~~
- (2)(a) "Cannabis" means any part of a marijuana plant.
- (b) "Cannabis" does not mean, for purposes of this rule, industrial hemp.
- (3) "Cannabis cultivation facility" means a person that:
- (a) possesses cannabis;
 - (b) grows or intends to grow cannabis; and
 - (c) sells or intends to sell cannabis to a cannabis cultivation facility or a cannabis processing facility.
- (4) "Cannabis cultivation facility agent registration card" means a registration card that the department issues that:
- (a) authorizes an individual to act as a cannabis production establishment agent; and
 - (b) designates the type of cannabis production establishment for which an individual may act as an agent.
- (5) "Department" means the Utah Department of Agriculture and Food.
- (6) "Indoor cannabis cultivation" means cultivation of cannabis within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors.
- (7) "Lot" means the quantity of:
- (a) flower produced on a particular date and time, following clean up until the next clean up during which the same materials are used; or
 - (b) trim, leaves, or other plant matter from cannabis plants produced on a particular date and time, following clean up until the next clean up.
- (8) "Outdoor cannabis cultivation" means an open or cleared ground fully enclosed at the perimeter by a securable, sight obscure wall or fence at least eight feet high.

R66-1-3. Cannabis Cultivation Facility License.

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

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

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

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

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

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

[(7)]3 The cannabis cultivation facility license shall expire on December 31st.

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

R66-1-4. Cannabis Cultivation Facility Requirements.

(1) A cannabis cultivation facility operating plan shall meet the requirements described in Section 4-41a-204 and contain a blueprint or diagram of the facility containing the following information:

- (a) for indoor cannabis cultivation, the square footage of the area where cannabis is to be propagated;
- (b) for indoor cannabis cultivation, the square footage of the area where cannabis is to be grown;
- (c) ~~[the square footage of]~~ the area where cannabis is to be harvested;
- (d) the area where cannabis is to be dried, trimmed, and cured;
- (e) ~~[the square footage of]~~ the area where cannabis is to be packaged for wholesale;
- (f) the total square footage of the cultivation facility;
- (g) ~~[the square footage and]~~ location of areas to be used as a storeroom;
- (h) the location of the toilet facilities and hand washing facilities;
- (i) the location of a break room and location of personal belonging lockers; and
- (j) the location of the area to be used for loading and unloading of cannabis product for transportation.

NOTICES OF PROPOSED RULES

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

- (a) the area where cannabis to be propagated; and
- (b) the area where cannabis is to be grown.

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

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

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

- ~~(a) fire;~~
- ~~(b) chemical spill; or~~
- ~~(c) another emergency at the facility.]~~

~~[(6)3] A cannabis cultivation facility operating plan shall include[7:]~~

- ~~(a) a pest management plan;~~
- ~~(b) a description of when and how fertilizers are to be applied during the production process;~~
- ~~(c) procedures for water usage and waste water disposal; and~~
- ~~(d) a waste disposal plan that complies with Section 4-41a-405.~~

~~[(7)4] A cannabis cultivation facility shall have a written plan to handle potential [recall and] destruction of cannabis because of contamination.~~

~~[(8)5] A cannabis cultivation facility shall use a standardized scale that is registered with the department when cannabis is[7:]~~

- ~~(a) packaged for sale by weight;~~
- ~~(b) bought and sold by weight; or~~
- ~~(c) weighed for entry into the inventory control system.~~

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

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

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

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

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

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

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

~~[(a)1] the cannabis cultivation facility may use no more than a total of two acres outdoors and 50,000 square feet indoors for cultivation; or~~

~~[(b)2] the cannabis cultivation facility may use less than two acres outdoors or 50,000 square feet indoors for cultivation[7:] but may not exceed the indoor or outdoor limit.~~

R66-1-6. Security Requirements.

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

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

- ~~(a) with a minimum camera resolution of 640 x 470 pixels or pixel equivalent for analog; and~~
- ~~[(b) that retains footage for at least 45 days.]~~

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

~~[(4) Controlled areas include:~~

- ~~(a) each entrance and exit, or ingress and egress vantage point;~~
- ~~(b) each area within an indoor or outdoor room or area where cannabis is propagated, grown, harvested, dried, or trimmed;~~
- ~~(c) each area where cannabis is stored; and~~
- ~~(d) each area where cannabis waste is being moved, processed, stored, or destroyed.~~

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

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

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

~~[(8)] (2) Visitors to a cannabis cultivation facility shall be required to have a properly displayed identification badge issued by the facility while on the premises of the facility.~~

~~[(9)3] Cannabis cultivation facility visitors shall be escorted by a cannabis cultivation facility agent while in the facility.~~

~~[(10)4] A cannabis cultivation facility shall keep and maintain a log showing:~~

- ~~(a) the full name and age of each visitor entering the facility;~~
- ~~(b) the badge number issued;~~
- ~~(c) the time of arrival;~~

- (d) the time of departure; and
- (e) the purpose of the visit.
- ~~[(14)5]~~ The visitor log shall be maintained by the cannabis cultivation facility for a minimum of one year.
- ~~[(12)6]~~ The cannabis cultivation facility shall make visitor log available to the department upon request.

R66-1-7. Inventory Control.

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

~~[(2)1] Each cannabis plant, lot of usable cannabis trim, leaves, and other plant matter, test lot, and harvest lot shall be issued a unique identification number in the inventory control system.~~

~~[(3)2] Unique identification numbers cannot be reused.~~

~~[(4)3] Each cannabis plant, lot of usable cannabis trim, leaves, and other plant matter, cannabis product, test lot, harvest lot, and process lot that has been issued a unique identification number shall have a physical tag with the unique identification number.~~

~~[(5)4] The tag shall be legible and placed in a position that can be clearly read and kept free from dirt and debris and include the following information:~~

- ~~(a) unique identification number;~~
- ~~(b) batch or lot number;~~
- ~~(c) strain;~~
- ~~(d) facility name and license number; and~~
- ~~(e) date entered into the inventory control system.~~

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

- ~~(a) movement of seedling or clone to the vegetation production area;~~
- ~~(b) when plants are partially or fully harvested or destroyed;~~
- ~~(c) when cannabis is being transported to other facilities;~~
- ~~(d) samples used for testing and the testing results;~~
- ~~(e) a complete inventory of cannabis clones, plants, trim, or other plant material;~~
- ~~(f) the weight of harvested cannabis plants immediately after harvest;~~
- ~~(g) the weight and disposal of post harvest waste materials;~~
- ~~(h) the identity of the individual who disposed of the waste and the location of waste receptacle; and~~
- ~~(i) theft or loss, or suspected theft or loss, of cannabis.]~~

~~[(7)5] A receiving cannabis cultivation facility shall:~~

~~(a) document in the inventory [tracking]control system any cannabis received, and any differences between the quantity specified in the transport manifest and the quantities received; and[-]~~

~~(b) within one week of receipt, notify the department of disparities in the quantity of cannabis received that are greater than 10% from the manifest recorded amount.~~

~~[(8)6] For plants under eight inches, the cultivation facility shall keep record of:~~

- ~~(a) the number of cannabis seeds or cuttings planted;~~
- ~~(b) the date they were planted;~~
- ~~(c) the date the plants were moved into the vegetation area and tagged;~~
- ~~(d) the strain of the seeds or cuttings;~~
- ~~(e) the number of plants grown to maturity;~~
- ~~(f) the number of plants disposed of; and~~
- ~~(g) the date of disposal.~~

R66-1-8. Cannabis Cultivation Facility Agents.

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

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

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

- ~~(a) the agent's full name;~~
- ~~(b) identifying information; and~~
- ~~(c) a photograph of the agent.]~~

~~[(4)1] A cannabis cultivation facility is responsible to ensure that each cannabis cultivation facility agent has received any task specific training as outlined in the operating plan submitted to the department.~~

~~[(5)2] A cannabis cultivation facility agent shall have a properly displayed identification badge which has been issued by the department while on the facility premises or while engaged in the transportation of cannabis.~~

~~[(6)3] Each cannabis cultivation facility agent shall have their state issued identification in their possession to certify the information on their badge is correct.~~

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

R66-1-9. [~~Pesticide and Fertilizer Use.~~] Irradiation of Cannabis Plants.

(1) A cannabis cultivation facility may utilize radiation-based methods and equipment for quality assurance or remediation purposes if:

(a) the method is approved in their operating plan, that includes:

(i) type of radiation or ionizing energy source;

(ii) equipment; and

(iii) documentation of state approval by the Utah Department of Environmental Quality; and

(b) if being used for remediation, the cultivator has submitted and received approval from the department.

(2) Batches or lots of cannabis treated by radiation shall be noted in the inventory control system, and each container of the batch or lot shall be stickered with the radura symbol until the batch is completely used or destroyed.

(3) The cultivator shall maintain the records required by this section for three years after the final disposition of the irradiated cannabis, and shall make the records available for inspection and copy by the department. Records include:

(a) the cannabis batch treated;

(b) lot identification;

(c) approved operating plan and evidence of compliance with the operating plan;

(d) ionizing energy source;

(e) source calibration;

(f) dosimetry;

(g) dose distribution in the product;

(h) the date of irradiation;

(i) final products that were made by the irradiated cannabis; and

(j) processors the plant product was sent to.

(4) The label of a cannabis product that contains irradiated cannabis shall display:

(a) the radura symbol that is at least one-sixteenth inch in height; and

(b) the statement: "Treated with radiation" in text as prominent as the ingredients.

(5) The radura symbol and statement shall be placed prominently and conspicuously on the label.

(6) A cultivator shall notify a processor that the product has been irradiated before purchase.

[~~— (1) A cannabis cultivation facility shall maintain:~~

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

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

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

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

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

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

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

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

[R66-1-10. Transportation:

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

(2) The manifest shall contain the following information:

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

(b) the physical address and cannabis production establishment license number of the receiving location;

(c) the strain name, quantity by weight, and unique identification number of each cannabis material to be transported;

(d) the date and time of departure;

(e) the estimated date and time of arrival; and

(f) the name and signature of each cannabis production establishment agent accompanying the cannabis.

(3) The transport manifest may not be voided or changed after departing from the original cannabis cultivation facility.

(4) A copy of the transport manifest shall be given to the receiving cannabis production establishment.

(5) The receiving cannabis establishment shall ensure that the cannabis material received is as described in the transport manifest and shall record the amount received for each strain into the inventory control system.

(6) The receiving cannabis establishment shall document at the time of receipt any differences between the quantity specified in the transport manifest and the quantities received in the inventory control system.

(7) During transport a cannabis cultivation facility shall ensure the cannabis is:

(a) shielded from the public view;

(b) secured; and

(c) temperature controlled if perishable.

(8) A cannabis cultivation facility shall contact the department within 24 hours if a vehicle transporting cannabis is involved in an accident that involves product loss.

(9) Only the registered agents of the cannabis cultivation facility may occupy a transporting vehicle.]

R66-1-[14]10. Recall Protocol.

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

R66-1-[12]11. Minimum Requirements for the Storage and Handling of Cannabis.

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

~~R66-1-13. Cannabis Waste Disposal.~~

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

R66-1-[14]12. Change in Operation Plans.

- (1) A cannabis cultivation facility shall submit a notice, on a form provided by the department, before making any changes to:
 - (a) ownership or financial backing of the facility;
 - (b) the facility's name;
 - (c) a change in location;
 - (d) any modification, remodeling, expansion, reduction or physical, non-cosmetic alteration of a facility; or

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- (e) change in square footage or acreage of cannabis intended to be cultivated.
- (2) A cannabis cultivation facility may not implement changes to the approved operation plan without department approval.
- (3) The department shall approve of requested changes unless approval would lead to a violation of the applicable laws and rules of the state.
- (4) The department shall specify the reason for the denial of approval for a change to the operation plan.

R66-1-~~15~~13. Renewals.

(1) A cannabis cultivation facility shall submit a notice of intent to renew the cannabis cultivation facility license and the licensing fee to the department by ~~December 1st~~ November 1st.

(2) ~~The licensee shall report information required under Subsection 4-41a-201.1(1)(b)(ii) to the board.~~

(~~2~~3) If the cannabis cultivation facility licensing fee and intent to renew the cannabis cultivation facility license are not submitted by December 31st the cannabis cultivation facility licensee may not continue to operate.

(~~3~~4) Pursuant to Section 4-41a-203, the board shall renew a cannabis cultivation facility license unless they identify a significant violation of the applicable laws and rules of the state.

R66-1-~~16~~14. Violations Categories.

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

- (a) use of unapproved pesticide or unapproved agricultural soil amendment;
- (b) cannabis sold to an unlicensed source;
- (c) cannabis purchased from an unlicensed source;
- (d) refusal to allow inspection;
- (e) failure to comply with testing requirements;
- (f) a test result for high pesticide residue in the cannabis produced or cannabis product;
- (g) unauthorized personnel on the premises;
- (h) permitting criminal conduct on the premises; or
- (i) engaging in or permitting a violation of the Title 4, Chapter 41a, Cannabis Production Establishments.

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

- (a) failure to maintain alarm and security systems;
- (b) failure to keep and maintain records for at least two years;
- (c) failure to maintain traceability;
- (d) failure to follow transportation requirements;
- (e) failure to follow the waste and disposal requirements;
- (f) engaging in or permitting a violation of Title 4, Chapter 41a, Cannabis Production Establishments or this rule; or
- (g) failure to maintain standardized scales.

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

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

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

(5) The department may consider enhancing or reducing the penalty based on the seriousness of the violation.

KEY: marijuana, cannabis cultivation facility

Date of Last Change: ~~May 13, 2024~~2025

Authorizing, and Implemented or Interpreted Law: 4-41a-404(3); 4-41a-103(5); 4-41a-204(2)(e); 4-41a-302(3)(b)(ii); 4-41a-701(2); 4-41a-405(2)(b)(iv); 4-2-103(1)(i); 4-41a-801(1)

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:

R66-2

Filing ID: 57126

Agency Information

1. Title catchline: Agriculture and Food, Medical Cannabis and Industrial Hemp

Building: TSOB 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
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Kelly Pehrson	385-977-2147	kwpehrson@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R66-2. Cannabis Processing
3. Purpose of the new rule or reason for the change:
The Department of Agriculture and Food (Department) is making these changes to implement legislative changes passed during the 2025 General Session in HB 54, as well as remove unnecessary language from this rule.
4. Summary of the new rule or change:
Language has been removed from this rule to remove overly specific requirements in favor of relying on guidance that is already in the statute in Title 4, Chapter 41a. This includes language related to licensing requirements, operating plan requirements, security, inventory control, storage and handling, labeling, transportation, and waste and disposal.
In addition, clarifying language has been added regarding the separation of hemp and cannabis in the same facility (Section R66-2-5) and guidelines have been added related to remediation of cannabis via irradiation (Section R66-2-12).

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The rule changes are not adding requirements or changing the Department's administration of the program, there should be no fiscal impact to the state.
B) Local governments:
Local governments do not participate in the cannabis program and will not be impacted by the changes.
C) Small businesses ("small business" means a business employing 1-49 persons):
The rule changes are not adding requirements, just removing unnecessary language, there should be no fiscal impact to small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The rule changes are not adding requirements, just removing unnecessary language, there should be no fiscal impact 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):
Other persons do not participate in the cannabis program and will not be impacted.

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

Compliance costs are not changing because the department is not adding regulatory requirements.

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

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

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

The Interim Commissioner of the Utah Department of Agriculture and Food, Kelly Pehrson, has reviewed and approved this regulatory impact analysis.

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

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

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

A) Comments will be accepted until: 06/17/2025

9. This rule change MAY become effective on: 06/24/2025

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:	Kelly Pehrson, Interim Commissioner	Date:	04/24/2025
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R66. Agriculture and Food, Medical Cannabis and Industrial Hemp.**R66-2. Cannabis Processing.****R66-2-1. Authority and Purpose.**

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

R66-2-2. Definitions.

- (1) "Advertised Cannabinoid" means a cannabinoid listed on the product face.
- (2) "Appealing to children" means:
- (a) has a likeness bearing resemblance to a cartoon character or fictional character; or
 - (b) ~~[appears to]~~imitates a food or other product that is typically marketed toward or is appealing to children.
- ~~[(3)]~~ "Applicant" means ~~any person or business entity who applies for a cannabis processing facility license.~~
- ~~[(4)]~~(a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the cannabis plant.
- (b) "Artificially derived cannabinoid" does not include:
- (i) a naturally occurring chemical substance that is separated from the cannabis plant by a chemical or mechanical extraction process;
- or
- (ii) a cannabinoid that is produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst.
- ~~[(5)]~~ "Batch" means a quantity of:
- ~~(a) cannabis extract produced on a particular date and time, following clean up until the next clean up during which lots of cannabis are used;~~
 - ~~(b) cannabis product produced on a particular date and time, following clean up until the next clean up during which cannabis extract is used; or~~
 - ~~(c) cannabis flower packaged on a particular date and time, following clean up until the next clean up during which lots of cannabis are being used.~~
- ~~[(6)]~~(4) "Brand name" means a name given to a product by the manufacturer that does not include an image or symbol.~~[type of product manufactured by a particular company under a particular name.]~~ "Brand name" does not mean strains or flavors.
- ~~[(7)]~~(5) "Board" means the Cannabis Production Establishment and Pharmacy Licensing Advisory Board, created in Section 4-41a-201.1.
- ~~[(8)]~~(6) "Cannabinoid isolate" means the same as the term is defined in Subsection R66-3-2(11).
- ~~[(9)]~~(7)(a) "Cannabis" means any part of a marijuana plant.
- (b) "Cannabis" does not mean, for the purposes of this rule, industrial hemp.
- ~~[(10)]~~(8) "Cannabis concentrate" means the product of any chemical or physical process applied to cannabis biomass that concentrates or isolates the cannabinoids contained in the biomass.
- ~~[(11)]~~(9) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.
- ~~[(12)]~~(10) "Cannabis cultivation facility" means a person that:
- (a) possesses cannabis;
 - (b) grows or intends to grow cannabis; and
 - (c) sells or intends to sell cannabis to a cannabis cultivation facility or to a cannabis processing facility.
- ~~[(13)]~~(11) "Cannabis derivative product" means a product made using cannabis concentrate.
- ~~[(14)]~~(12) "Cannabis fact panel" means a part of the label that contains the information described in Subsections R66-2-~~[(13)]~~13(10) and R66-2-~~[(15)]~~13(12).
- ~~[(15)]~~(13) "Cannabis plant product" means any portion of a cannabis plant intended to be sold by a medical cannabis pharmacy in a form that is recognizable as a portion of a cannabis plant.
- ~~[(16)]~~(14) "Cannabis processing facility" means a person that:
- (a) acquires or intends to acquire cannabis from a cannabis production establishment;
 - (b) possesses cannabis with the intent to manufacture a cannabis product;
 - (c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis concentrate; and
 - (d) sells or intends to sell a cannabis product to a medical cannabis pharmacy.
- ~~[(17)]~~(15) "Cannabis processing facility agent" means an individual who holds a valid cannabis production establishment agent registration card with a cannabis processing facility designation.
- ~~[(18)]~~(16) "Cannabis production establishment agent registration card" means a registration card that the department issues that:
- (a) authorizes an individual to act as a cannabis production establishment agent; and
 - (b) designates the type of cannabis production establishment for which an individual may act as an agent.
- ~~[(19)]~~(17) "COA" means Certificate of Analysis from an independent cannabis testing laboratory.
- ~~[(20)]~~(18) "Complaint" means any negative feedback received from a medical cannabis patient or medical cannabis or industrial hemp licensee.
- ~~[(21)]~~(19) "Department" means the Utah Department of Agriculture and Food.
- ~~[(22)]~~(20) "Directions for use" means recommended routes of administration for a medical cannabis treatment and suggested usage guidelines, and may include:
- (a) THC percentage;
 - (b) strain names;
 - (c) strain dominance; or
 - (d) dietary restrictions.
- ~~[(23)]~~(21) "Label" means a written, printed, or graphic display on the immediate container of a product.
- ~~[(24)]~~(22) "Labeling" means a label and other written, printed, or graphic display:

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- (a) on the product or the product's container or wrapper; or
- (b) accompanying the product.
- ~~(25)~~23) "Logo" means symbols, stylized text, or both that represent a company through a visual image that can be easily understood and recognized.
- ~~(26)~~24) "Lot" means the quantity of:
 - (a) flower produced on a particular date and time, following clean up until the next clean up during which the same materials are used; or
 - (b) trim, leaves, or other plant matter from cannabis plants produced on a particular date and time, following clean up until the next clean up.
- ~~(27)~~25) "Product face" means the part of a label that is on the outer packaging and most likely to be displayed, presented, or shown under customary conditions of display for retail sale.
 - (a) For cylindrical containers that wrap around the entire container, the product face will be considered 50% of the entire label.
 - (b) For logos or brands on container lids the product face will be considered the lid and the front of the container.
- ~~(28)~~26) "Total THC" means the sum of the determined amounts of delta-9-THC and delta-9-THCA, according to the formula: Total THC = delta-9-THC + (delta-9-THCA x 0.877).

R66-2-3. Cannabis Processing Facility License.

- (1) A cannabis processing facility license allows the licensee to receive cannabis from a licensed cannabis cultivator or processor~~[production facility]~~.
- (2) A cannabis processing facility license allows the licensee to manufacture cannabis products and send them to medical cannabis pharmacies for sale.~~[A Tier 1 cannabis processing facility license allows the licensee to:~~
 - ~~(a) create cannabis concentrate;~~
 - ~~(b) create cannabis derivative product; and~~
 - ~~(c) package and label final product.~~~~(3) A Tier 2 cannabis processing facility license allows the licensee to package and label cannabis and cannabis final product.]~~
 - ~~(4) A complete application shall include the required fee, statements, forms, diagrams, operation plans, copy of current Utah manufactured food establishment registration, and other applicable documents required in the application packet to be accepted and processed by the department.~~
 - ~~(5) Before approving an application, the department may contact the applicant and request additional supporting documentation or information.~~
 - ~~(6) Before issuing a license, the department shall inspect the proposed premises to determine if the applicant complies with state laws and rules.]~~
 - ~~(7)~~3) Each cannabis processing facility license shall expire one calendar year from the date of licensure.
 - ~~(8) An application for renewals shall be submitted to the department 30 days before expiration.~~
 - ~~(9) If the renewal application is not submitted 30 days before the expiration date, the licensee may not continue to operate.~~
 - ~~(10) A cannabis production establishment license is not transferable or assignable. If the ownership of a cannabis production establishment changes by 50% or more, the requirements of Subsection 4-41a-201(15) shall be followed.]~~

R66-2-4. Cannabis Processing Facility Requirements.

- (1) A cannabis processing facility operating plan shall meet the requirements described in Section 4-41a-204 and contain a blueprint of the facility containing the following information:
 - (a) ~~[the square footage of]~~the areas where cannabis is to be extracted;
 - (b) ~~[the square footage of]~~the areas where cannabis or cannabis products are to be packaged and labeled;
 - (c) ~~[the square footage of]~~the areas where cannabis products are manufactured;
 - (d) ~~[the square footage and]~~location of storerooms for cannabis awaiting extraction;
 - (e) ~~[the square footage and]~~location of storerooms for cannabis awaiting further manufacturing;
 - (f) the area where finished cannabis and cannabis products are stored;
 - (g) the location of toilet facilities and hand washing facilities;
 - (h) the location of a break room and location of personal belonging lockers; and
 - (i) the location of the areas to be used for loading and unloading of cannabis and cannabis products~~[; and]~~.
 - ~~(j) the total square footage of the overall cannabis processing facility.~~
- ~~(2) A cannabis processing facility shall have written emergency procedures to be followed in case of:~~
 - ~~(a) fire;~~
 - ~~(b) chemical spill; or~~
 - ~~(c) other emergency at the facility.]~~
- (3) A cannabis processing facility shall have a written plan to handle potential recall and destruction of cannabis due to contamination.
- (4) A cannabis processing facility operating plan shall include a waste disposal plan that complies with 4-41a-405.
- (5) A cannabis processing facility shall use a standardized scale that is registered with the department when cannabis is:
 - (a) packaged for sale by weight;
 - (b) bought and sold by weight; or
 - (c) weighed for entry into the inventory control system.

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

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

~~[(7)](6) A cannabis processing facility creating cannabis derivative product shall develop standard operating procedures.~~

~~[(8)](7) Pursuant to Subsection 4-41a-403(4)(b), a cannabis processing facility may use signage on the property that includes a logo, as long as the logo does not include:~~

- ~~(a) [unprofessional] terms, slang, phrasing, or verbiage associated with the recreational use of cannabis;~~
- ~~(b) any image bearing resemblance to a cartoon character or fictional character whose target audience is children or minors;~~
- ~~(c) content, symbol, or imagery that [the cannabis processing facility knows or should know] appeals to children;~~
- ~~(d) imagery featuring a person using the product in any way;~~
- ~~(e) any recreationally oriented subject; or~~
- ~~(f) any statement, design, or representation, picture, or illustration that is obscene or indecent.~~

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

~~[(10)](8) A cannabis processing facility shall keep records verifying that each time they receive a batch of vaporizer cartridges a sample is tested for heavy metals by an independent cannabis testing laboratory pursuant to Section 4-41a-603 or have a certificate of conformance from the manufacturer.~~

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

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

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

(3) The licensee shall provide the department an operating plan detailing how separation of materials is implemented, including the facility's separation procedures for raw material, extract, and final products that ensures:~~[Processing equipment may be considered neutral territory for hemp and cannabis if:]~~

- (a) only one material is processed~~[present in neutral territory]~~ at a time;
- (b) packaging tables ~~[in neutral territory are only]~~ are only used for the material being processed ~~[that]~~ each day; and
- ~~[(c) if packaging tables are used for another material they shall be moved to the respective side of the facility.]~~

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

- ~~[(a)](c) [the machinery shall be cleaned in between hemp and cannabis days]~~ machinery is cleaned between material being processed;
- ~~[(b)](i)~~ cleaning logs shall be kept and ~~[monitored by]~~ provided to the department upon inspection of the facility; and
- ~~[(e)](ii)~~ cleaning logs shall include the machines used, the date cleaned, and the name of the employee that conducted the cleaning.

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

- ~~(a) in a neutral zone; or~~
- ~~(b) in a designated side of the facility.~~
- ~~(6) Freezer separation.~~

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

~~[(b)](4) Cannabis and hemp material shall be clearly labeled pursuant to the requirements of this rule and Rule [R68-25]R66-30 and shall be in sealed containers.~~

~~[(7) Storage separation.~~

- ~~(a) Industrial hemp and medical cannabis shall be stored in separate secure locations.~~
- ~~(b) Storage shall include storage for:~~
 - ~~(i) final product;~~
 - ~~(ii) raw material; and~~
 - ~~(iii) processed material.~~

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

R66-2-6. Cannabis Extraction Requirements.

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

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

(3) A cannabis processing facility using carbon dioxide (CO₂) gas extraction system shall use a professional grade closed loop CO₂ gas extraction system where each vessel is rated to a minimum of six hundred pounds per square inch and CO₂ shall be at least 99% purity.

(4) Closed loop hydrocarbon, alcohol, or CO₂ extraction systems shall be commercially manufactured and bear a permanently affixed and visible serial number.

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

- (a) safe for its intended use;
- (b) commercially manufactured; and

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- (c) built to conform to recognized and generally accepted good engineering practices, such as:
 - (i) the American Society of Mechanical Engineers (ASME);
 - (ii) American National Standards Institute (ANSI);
 - (iii) Underwriters Laboratories; or
 - (iv) The American Society for Testing and Materials.
- (6) The certification document shall contain the signature and stamp of the certifying professional engineer and the serial number of the extraction unit being certified.
- (7) A cannabis processing facility may use an alternative extraction method with prior approval from the department.
- (8) A cannabis processing facility shall use food grade ingredients to create cannabis derivative product.
- (9) A cannabis processing facility may use heat, screens, presses, steam distillation, ice water, and other mechanical methods which do not use solvents or gasses.
- (10) A cannabis processing facility shall ensure each solvent, with the exception of CO₂, is extracted in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.
- (11) A cannabis processing facility agent using solvents or gasses in a closed loop system shall be fully trained in the use of the system and have direct access to applicable material safety data sheets.
- (12) Parts per million for one gram of finished extract cannot exceed residual solvent or gas levels provided in Rule ~~[R68-29]~~R66-3.

R66-2-7. Cannabinoid Isolate.

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

R66-2-8. Security Requirements.

- ~~[(1) At a minimum, each cannabis processing facility shall have a security alarm system on each perimeter entry point and perimeter window.]~~
- ~~[(2)]~~1 At a minimum, a licensed cannabis processing facility shall have a complete video surveillance system:
 - (a) with minimum camera resolution of 1280 x 720 pixels or pixel equivalent for analog; and
 - (b) ~~[that retains footage for at least 45 days.]~~
- ~~[(3) Each camera shall be fixed and placement shall]~~that allows for the clear and certain identification of any person and activit~~ies]~~y
~~in controlled areas.~~
- ~~[(4) Controlled areas included:~~
 - ~~[(a) any entrances and exits, or ingress and egress vantage points;~~
 - ~~[(b) any areas where cannabis or cannabis products are stored;~~
 - ~~[(c) any areas where cannabis or cannabis products are extracted;~~
 - ~~[(d) any areas where cannabis or cannabis products are manufactured, packaged, or labeled; and~~
 - ~~[(e) any areas where cannabis waste is being moved, processed, stored, or destroyed.~~
- ~~[(5) Each camera shall record continuously.]~~
- ~~[(6) For locally stored footage, the surveillance system storage device shall be secured in the facility in a lockbox, cabinet, closet, or secured in another manner to protect from employee tampering or theft.~~
- ~~[(7) For footage stored on a remote server, access shall be restricted to protect from employee tampering.~~
- ~~[(8) Any gate or entry point must have lighting sufficient to record activity occurring in low light conditions.]~~
- ~~[(9)]~~2 Each visitor to a cannabis processing facility shall be required to display an identification badge issued by the facility while on the premises.
- ~~[(10)]~~3 At any time, visitors shall be escorted by a cannabis processing facility agent.
- ~~[(11)]~~4 A cannabis processing facility shall keep and maintain a visitors log showing:
 - (a) the full name and age of each visitor entering the facility;
 - (b) badge number issued;
 - (c) the time of arrival;
 - (d) the time of departure; and
 - (e) the purpose of the visit.
- ~~[(12)]~~5 The cannabis processing facility shall keep the visitors log for a minimum of one year.
- ~~[(13)]~~6 The cannabis processing facility shall make the visitor log available to the department upon request.

R66-2-9. Inventory Control.

(1) Each batch or lot of cannabis, cannabis derivative product, cannabis product, test sample, or cannabis waste shall be entered into the inventory control system. Recorded information shall include:

- (a) unique identification number;
- (b) batch or lot number;
- (c) name of product;
- (d) facility name and license number; and
- (e) date entered into the inventory control system.

(2) Each batch or lot of cannabis, cannabis derivative product, cannabis product, sample, or cannabis waste shall be traceable to the lot.

(3) Unique identification numbers may not be reused.

(4) Each batch, lot, or sample of cannabis, cannabis derivative product, cannabis product, or cannabis waste shall have a physical tag containing information listed in Subsection R66-2-9(1).

(5) The tag shall be legible and placed in a position that can be clearly read.

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

~~_____ (a) date and time material containing cannabis are being transported to a cannabis production establishment or medical cannabis pharmacy;~~

~~_____ (b) each sample used for testing and the test results;~~

~~_____ (c) a complete inventory of material containing cannabis;~~

~~_____ (d) cannabis product by unit count;~~

~~_____ (e) weight per unit of product;~~

~~_____ (f) weight and disposal of cannabis waste materials;~~

~~_____ (g) the identity of who disposed of the cannabis waste and the location of the waste receptacles; and~~

~~_____ (h) theft or loss or suspected theft or loss of material containing cannabis.]~~

~~_____ ([7]6) A receiving cannabis processing facility shall:~~

~~_____ (a) document in the inventory control system any material containing cannabis received, and any difference between the quantity specified in the transport manifest and the quantity received[-]; and~~

~~_____ (b) within one working day, notify the department if disparities in the quantity of cannabis received is greater than 10% from the manifest recorded amount.~~

~~_____ (8) A cannabis processing facility shall immediately upon receipt of THC extract from a licensed industrial hemp processor enter the following information into the inventory control system:~~

~~_____ (a) the amount of THC extract received;~~

~~_____ (b) the name, address, and licensing number of the industrial hemp processor;~~

~~_____ (c) the weight per unit of product received; and~~

~~_____ (d) the assigned unique identification number.]~~

R66-2-10. Cannabis Processing Facility Agents.

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

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

~~_____ (3) The cannabis processing facility agent registration card shall contain:~~

~~_____ (a) the full name of the agent;~~

~~_____ (b) identifying information; and~~

~~_____ (c) a photograph of the agent.]~~

~~_____ ([4]1) A cannabis processing facility is responsible to ensure that each agent has received any task specific training as outlined in the operating plan submitted to the department.~~

~~_____ ([5]2) A cannabis processing facility agent shall have a properly displayed identification badge which has been issued by the department at all times while on the facility premises or while engaged in the transportation of cannabis.~~

~~_____ ([6]3) Each cannabis processing facility agent shall have their state issued identification card in their possession to certify the information on their badge is correct.~~

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

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

~~_____ (1) A cannabis processing facility shall store cannabis, cannabis concentrate, or cannabis product in a location separated by a physical barrier from outdated, damaged, deteriorated, misbranded, or adulterated product or product whose containers or packaging have been opened or breached.~~

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

~~_____ (3) Storage areas shall:~~

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

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

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- ~~_____ (4) A cannabis processing facility shall:~~
- ~~_____ (a) track and label each cannabis plant product and cannabis concentrate;~~
- ~~_____ (b) ensure each unfinished product is stored in a secure location; and~~
- ~~_____ (c) immediately after completion of the process or at the end of the scheduled business day return to a secure location.~~
- ~~_____ (5) Cannabis shall be stored away from other chemicals, lubricants, pesticides, or other potential contaminants.~~
- ~~_____ (6) If a manufacturing process cannot be completed at the end of a working day, the processor shall securely lock the processing area or tanks, vessels, bins, or bulk containers containing cannabis inside an area or room that affords adequate security.~~

R66-2-12. Product Appearance and Flavor.

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

R66-2-[13]11. Processing of Cannabis and Cannabis Product.

~~A licensee that manufactures cannabis products shall be registered with the Division of Regulatory Services within the department. [(1) A cannabis processing facility shall process, manufacture, package, and label cannabis and cannabis product in accordance with 21 CFR 111, "Current Good Manufacturing, Packaging, Labeling, or Holding Operation for Dietary Supplements."~~

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

R66-2-[14]12. ~~Irradiation of Cannabis.~~ Irradiated Plant Product From Cannabis Cultivators.

- ~~(1) A cannabis processor may use methods of irradiation for remediation of cannabis if:~~
- ~~(a) the method is approved in their operating plan, which includes:~~
- ~~(i) type of radiation or ionizing energy source;~~
- ~~(ii) equipment; and~~
- ~~(iii) documentation of state approval by the Utah Department of Environmental Quality;~~
- ~~(b) the product has failed quality assurance testing for microbial[s] contaminants; and~~
- ~~(c) the processor has submitted and received approval for remediation to use radiation.~~
- ~~(2) Batches or lots of cannabis remediated by radiation shall be noted in the inventory control system, and each container of the batch or lot shall [be stickered] have a sticker with the radura symbol until the batch is completely used or destroyed.~~
- ~~(3) The processor shall maintain records required by this section for three years after the final disposition of the irradiated cannabis, and shall make the records available for inspection and copy by the department. Records shall include:~~
- ~~(a) the cannabis batch treated;~~
- ~~(b) lot identification;~~
- ~~(c) approved operating plan and evidence of compliance with the operating plan;~~
- ~~(d) ionizing energy source;~~
- ~~(e) source calibration;~~
- ~~(f) dosimetry;~~
- ~~(g) dose distribution in the product;~~
- ~~(h) the date of irradiation;~~
- ~~(i) final products that were made by the irradiated cannabis; and~~
- ~~(j) pharmacies the product was sent to.~~
- ~~(4) The label of a cannabis product that contains irradiated cannabis shall display:~~
- ~~(a) the radura symbol; and~~
- ~~(b) the statement: "Treated with radiation" in text as prominent as the ingredients.~~
- ~~(5) The radura symbol and statement shall be placed prominently and conspicuously on the label.~~
- ~~(6) Processors shall notify a pharmacy that the product has been irradiated before purchase.~~
- ~~(7) Processors that receive irradiated cannabis from a cultivator shall follow Subsections R66-2-12(4)(a), R66-2-12(4)(b), R66-2-12(5) and R66-2-12(6).~~

R66-2-[15]13. Labeling and Packaging of Cannabis and Cannabis Product.

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

- (a) the medicinal dosage form identified on the product face along with the words "THC or Cannabis Infused":
 - (i) "gummies" may be used instead of "gelatinous cube";
 - (ii) "tincture" may be used instead of "sublingual preparation" or "liquid suspension";~~and~~
 - (iii) a descriptive product name, that is a common name for the dosage form, which is allowed if the text is smaller than the dosage form and the name is not appealing to children, recreational, or contain adjectives;
 - (b) the name and license number of the cannabis processing facility;
 - (c) directions for consumers to contact the department with product complaints by going to medicalcannabis.utah.gov/production;
 - (d) for products containing THC, a warning symbol provided by the department including colors; and
 - (e) the amount of total THC contained in the package, in milligrams.
- ~~[(2) Before January 1, 2024, cannabis product labeling shall contain the following warning: "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a recommending medical provider."~~
- ~~[(3) Starting on January 1, 2024, cannabis product labeling shall contain the following warning: "WARNING: Cannabis has intoxicating effects, may be addictive, and may increase risk of mental illness. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a recommending medical provider."~~
- ~~[(4) Raw cannabis or a cannabis product sold in a vaporizer cartridge shall include a warning label that states:~~
- ~~(a) "WARNING: Vaping of cannabis derived products has been associated with lung injury."; and~~
 - ~~(b) "WARNING: Inhalation of cannabis smoke has been associated with lung injury."]~~
- ([5]2) A cannabis processing facility may include a QR code on the cannabis product labeling that links to a COA from a licensed independent cannabis testing laboratory. The QR code may not link to any other information.
- ([6]3) Any information appearing on the cannabis product labeling shall be:
- (a) displayed in any legible font, that is not a script or decorative font, provided that the lowercase letter "o" is at least one-sixteenth inch in height;
 - (b) displayed in a color that contrasts conspicuously with its background; and
 - (c) displayed in English, although a licensee may also choose to display required information in additional languages.
- (4) Flavors, strains and terpenes shall be printed in the same size and font as the information in Subsection R66-2-13(6)(a) through Subsection 66-2-13(6)(c).
- ([7]5) A cannabis processing facility shall place a cannabis fact panel on a cannabis product before the sale of the cannabis product to a medical cannabis pharmacy.
- ([8]6) The cannabis fact panel shall be printed in black and white.
- ([9]7) The cannabis fact panel shall be securely affixed to the package.
- ([10]8) The cannabis fact panel for cannabis plant product shall include the following information, from top to bottom, in the order as listed:
- (a) the name of the cannabis cultivation facility, identified as the cultivator;
 - (b) the lot number;
 - (c) the date of harvest;
 - (d) the date of final testing;
 - (e) the batch number;
 - (f) the date on which the product was packaged;
 - (g) the quantity of any cannabinoid listed as present on the COA that is greater than 1% of total cannabinoids;
 - (h) the expiration date; and
 - (i) the net weight displayed in grams.
- ~~[(11]9) THC potency levels for cannabis flower shall be listed as total THC in milligrams per gram.~~
- (1[2]0) The cannabis fact panel for cannabis derivative product shall include the following information, from top to bottom, in the order listed:
- (a) the batch number;
 - (b) the date of the final testing;
 - (c) the date on which the product was packaged;
 - (d) for products intended to be ingested, the amount of total THC and any advertised cannabinoid in milligrams per serving;
 - (e) the quantity of any cannabinoid listed as present on the COA that is greater than 1% of total cannabinoids;
 - (f) the expiration date;
 - (g) the total amount of THC measured in milligrams per gram;
 - (h) a list of each ingredient and each major food allergen as identified in 21 U.S.C. 343;
 - (i) the identity of any artificially derived cannabinoid present in the product;
 - (j) the net weight of the product displayed in grams or milliliters and number of pieces, if applicable; and
 - (k) a disclosure of the type of extraction process used and any solvent, gas, or other chemical used in the extraction process.
- (1[3]1) A cannabis processing facility may include a QR code affixed to the product that is scannable for inventory control at the pharmacy. The QR code may not link to any other information.
- (1[4]2) The label of a cannabis derivative product may include a flavor name if it is not candy-like or a name ~~[the facility knows or should know]that~~ appeals to children.
- (1[5]3) The label of a cannabis product that contains an artificially derived cannabinoid shall clearly display the following text: "This product contains artificially derived cannabinoids."

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(1[6]4) Any terpene listed on a cannabis product package shall be verified as present by a licensed independent cannabis testing laboratory and have its quantity listed on the fact panel.

(1[7]5) A cannabis processing facility may include a logo and product brand name on the cannabis product face that is exempt from the requirements of Subsection R66-2-[45]13(6) and that:

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

(1[8]6) No other information, illustration, or depiction with the exception of directions for use or an item required by state law shall appear on the labeling.

(a) Directions for use may not be placed on the product face.

(b) Any of the warnings required in Chapter 4-41a may be added to the label of any product.

(1[9]7) Shapes on cannabis product packaging or labeling may not resemble the product or real-world items.

(18) Labeling may not contain medical claims.

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

(20) The department reserves the right to deny any label, logo, or brand name if the department reasonably believes it is in conflict with Chapter 4-41a or this section.

[R66-2-16. Transportation.

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

~~(2) The manifest shall contain the following information:~~

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

~~(b) physical address and license number of the receiving location;~~

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

~~(d) date and time of departure;~~

~~(e) estimated date and time of arrival; and~~

~~(f) name and signature of each agent accompanying the cannabis.~~

~~(3) The transport manifest may not be voided or changed after departing from the original cannabis production establishment.~~

~~(4) A copy of the transport manifest shall be given to the receiving cannabis production establishment or medical cannabis pharmacy.~~

~~(5) The receiving cannabis processing facility, independent laboratory, or medical cannabis pharmacy shall ensure that the cannabis material received is as described in the transport manifest and shall:~~

~~(a) record the amounts received for each strain into the inventory control system; and~~

~~(b) document any differences between the quantity specified in the transport manifest and the quantities received in the inventory control system.~~

~~(6) During transportation, cannabis shall be:~~

~~(a) shielded from the public view;~~

~~(b) secured; and~~

~~(c) temperature-controlled if perishable.~~

~~(7) A cannabis production facility shall contact the department within 24 hours if a vehicle transporting cannabis is involved in an accident that involves product loss.~~

~~(8) Only the registered agents of the cannabis processing facility may occupy a transporting vehicle.]~~

R66-2-[17]14. Recall Protocol.

(1) The department may initiate a recall of cannabis or cannabis products if:

- (a) evidence exists that pesticides not approved by the department are present on or in the cannabis or cannabis product;
- (b) evidence exists that residual solvents are present on or in cannabis or cannabis product;
- (c) evidence exists that harmful contaminants are present on or in cannabis or cannabis product; or
- (d) the department believes or has reason to believe the cannabis or cannabis product is unfit for human consumption.

(2) The recall plan of a cannabis processing facility shall include, at a minimum:

- (a) a designation of at least one member of the staff who serves as the recall coordinator;
- (b) procedures for identifying and isolating product to prevent or minimize distribution to patients;
- (c) procedures to retrieve and destroy product; and
- (d) a communications plan to notify those affected by the recall.

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

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

- (5) The department has authority to monitor the progress of the recall until the department declares an end to the recall.
- (6) A cannabis production facility shall notify the department before initiating a voluntary recall.

~~R66-2-18. Cannabis Waste Disposal.~~

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

~~R66-2-19~~15. Change in Operation Plans.

- (1) A cannabis processing facility shall submit a notice, on a form provided by the department, before making any changes to the facility's operating plan, including:
 - (a) ownership or financial backing of the facility;
 - (b) the facility's name;
 - (c) a change in location;
 - (d) any modification, remodeling, expansion, reduction or physical, non-cosmetic alteration of a facility;
 - (e) changes or adds processing or extraction equipment~~[-to the number of production lines];~~~~[-or]~~
 - (f) adds a new product or dosage form; or
 - ~~(g) any information requested by the department that shall allow the department to determine if requirements will be met.~~
- (2) A cannabis processing facility may not implement changes to the initial approved operation plan without ~~[board]~~ approval.
- (3) The board shall approve of requested changes unless approval would lead to a violation of the applicable laws and rules of the state.
- (4) The department shall specify the reason for the denial of approval for a change to the operation plan.
- (5) Before the board's review of a cannabis production establishment license under Subsection 4-41a-201.1(7)(e), the cannabis production establishment shall provide the board with:
 - (a) blueprints that show that there will be physical separation between medical cannabis and industrial hemp produced in their facility, including demonstrating storage and packaging areas ~~[on]are~~ separate~~[-sides of the same room]~~; and
 - (b) any information requested by the board that shall allow the board to determine if the requirements of Section ~~[R68-28]~~R66-2-5 will be met before the medical cannabis production establishment processes industrial hemp or industrial hemp products.

~~R66-2-20~~16. Renewals.

- (1) A cannabis processing facility shall submit a notice of intent to renew and the licensing fee to the department within 30 days of license expiration.
- ~~(2) The licensee shall report the information required for renewal under Subsection 4-41a-201.1(10)(b)(iii) to the board.~~
- ~~(2)3~~ If the licensing fee ~~[and intent to renew are not submitted within 30 days of]~~ and intent to renew are not submitted by the day of license expiration, the licensee may not continue to operate.
- ~~(3)4~~ The board may take into consideration significant violations issued in determining license renewals.

R66-2-~~24~~17. Targeted Marketing.

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

(2) Targeted marketing may not:

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

(c) promote excessive consumption;

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

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

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

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

(iv) is obscene or indecent;

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

(i) cartoons;

(ii) toys;

(iii) animals;

(iv) children; or

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

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

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

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

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

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

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

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

R66-2-~~22~~18. Violation Categories.

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

(a) cannabis sold to an unlicensed source;

(b) cannabis purchased from an unlicensed source;

(c) refusal to allow inspection;

(d) failure to comply with testing requirements;

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

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

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

(h) unauthorized personnel on the premises;

(i) permitting criminal conduct on the premises;

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

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

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

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

(a) failure to maintain alarm and security systems;

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

(c) failure to maintain traceability;

(d) failure to follow transportation requirements;

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

(f) failure to maintain separation between cannabis and hemp;

(g) failure to follow labeling and packaging requirements;

(h) failure to meet extraction requirements;

(i) distributing a final cannabis product with ~~an~~an actual weight that is lower than the net weight listed on the cannabis fact panel;

(j) engaging in or permitting a violation of Title 4, Chapter 41a, Cannabis Production Establishments or this rule which amounts to a regulatory violation as described in this subsection; or

(k) failure to maintain standardized scales.

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

- (a) an unauthorized change to the operating plan;
 - (b) failure to notify the department of changes to the operating plan;
 - (c) failure to notify the department of changes to financial or voting interests of greater than 2%;
 - (d) failure to follow the operating plan as approved by the department;
 - (e) engaging in or permitting a violation of this rule or Title 4, Chapter 41a, Cannabis Production Establishments which amounts to a licensing violation as described in this subsection; or
 - (f) failure to respond to violations.
- (4) The department shall calculate penalties based on the level of violation and the adverse effect or potential adverse effect at the time of the incidents giving rise to the violation.
- (5) The department may enhance or reduce the penalty based on the seriousness of the violation.

KEY: cannabis processing, cannabis production establishment

Date of Last Change: ~~October 15, 2024~~ 2025

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

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:

R82-1

Filing ID: 57134

Agency Information

1. Title catchline:	Alcoholic Beverage Services, Administration	
Street address:	1625 S 900 W	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 30408	
City, state and zip:	Salt Lake City, UT 84130-0408	
Contact persons:		
Name:	Phone:	Email:
Brian Swan	801-977-6801	bswan@utah.gov
Vickie Ashby	801-977-6801	vickieashby@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R82-1. General
3. Purpose of the new rule or reason for the change:
This rule change makes technical clarifications, creates a new defined term in order to clarify the labeling application process, and adds a new topic to the Department Alcoholic Beverage Services' (Department) training programs pursuant to new legislation (HB 347, passed in the 2025 General Session).
4. Summary of the new rule or change:
<p>This rule:</p> <ul style="list-style-type: none"> 1) clarifies that "Director" means the executive director; 2) creates a defined term "material revision" to better clarify when an application for approval is needed on a previously approved label; and 3) adds "interdicted person verification" to the list of training topics required by statute.

Fiscal Information

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

A) State budget:

This rule is not expected to have a fiscal impact on the state budget because the rule changes are technical in nature or consistent with current and previous Department practice.

The cost for the Department's new training program was accounted for in a fiscal note accompanying the legislation.

B) Local governments:

No fiscal impact as this rule does not affect local governments.

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

No fiscal impact as this rule is not anticipated to affect small businesses.

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

No fiscal impact as this rule is not anticipated to affect 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**):

No fiscal impact as this rule is not anticipated to affect persons other than businesses and government entities.

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

Because any applicable costs were already accounted for in the fiscal note accompanying legislation, there is no additional fiscal impact with these changes.

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

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

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

The Executive Director of the Department of Alcoholic Beverage Services, Tiffany Clason, 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 32B-2-202

Section 32B-1-704

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:

06/17/2025

9. This rule change MAY become effective on:

06/24/2025

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:

Tiffany Clason, Executive Director

Date:

04/28/2025

R82. Alcoholic Beverage Services, Administration.**R82-1. General.****R82-1-101. Scope and Effective Date.**

~~[These rules]~~ This rule ~~is[are]~~ adopted pursuant to ~~[s]~~Section 32B-2-202 and shall be interpreted so as to be consistent with the Alcoholic Beverage Control Act. ~~[These rules]~~ This rule shall govern the Department and all licensees and permittees of the Commission.

R82-1-102. Definitions.

(1) Authority. This rule is made pursuant to Sections 32B-1-102 and 32B-2-202.

(2) Definitions of terms in the Act are used in Title R82, except where the context of the terms in Title R82 clearly indicates a different meaning.

(3) As used in Title R82:

(a) "Act" means the Title 32B, Alcoholic Beverage Control Act.

(b) "Commission" means the Utah Alcoholic Beverage Services Commission.

(c)(i) "Controlled group of manufacturers" means a group of incorporated or non-incorporated alcohol manufacturers that are related directly or indirectly through more than 50% common ownership or control by any person;

(ii) "Controlled group of manufacturers" includes an alcohol manufacturer if more than 50% of the alcohol manufacturing entity is owned or controlled directly or indirectly either by, or in common with, another alcohol manufacturer.

(d) "Department " or "DABS" means the Utah Department of Alcoholic Beverage Services.

(e) "Director" means the executive director of the Department of Alcoholic Beverage Services.

(f) "Guest room" means a space normally utilized by an individual for occupancy, usually a traveler who lodges at an inn, hotel, or resort.

(g) "Manager" means, depending on the context:

(i) a person chosen or appointed to manage, direct, or administer the affairs of another person, corporation, or company;

(ii) an individual chosen or appointed to direct, supervise, or administer the operations at a licensed business; or

(iii) an individual who supervises the furnishing of an alcoholic product to another, regardless of the exact employment title that the individual holds.

(h) "Material revision" means a change that affects a label's imagery, color scheme, name, brand identification, logo, slogan, displayed certifications, wording, font size and style changes, alcohol content, ingredients, nutrition facts, and other identifiers unique to the brand.

(i) "Material revision" does not mean correction of typos, punctuation, changed address for bottling within Utah.

~~[(h)]~~(j) "Person" means the same as that term is defined in Section 68-3-12.5.

~~[(h)]~~(k) "Point of sale" means that portion:

(i) of a package agency, restaurant, limited restaurant, beer-only restaurant, airport lounge, on-premise banquet premises, reception center, recreational amenity on-premise beer retailer, tavern, single event permitted area, temporary special event beer permitted area, or public service special use permitted area that has been designated by the Department as an alcoholic beverage selling area; or

(ii) of an establishment that sells beer for off-premise consumption where the beer is displayed or offered for sale.

~~[(h)]~~(l) "Respondent" means a licensee, permittee, or employee or agent of a licensee or permittee, or other entity against whom a letter of admonishment or notice of agency action is directed.

~~[(h)]~~(m) "Staff" or "authorized staff member" means a person authorized by the director of the Department to perform a particular act.

~~[(h)]~~(n) "Subpart" refers to subsections of this rule.

~~[(h)]~~(n) "Utah alcoholic beverage control laws" means any Utah statute, Commission rule, or municipal or county ordinance relating to the manufacture, possession, transportation, distribution, sale, supply, wholesale, warehousing, or furnishing of alcoholic beverages.

NOTICES OF PROPOSED RULES

~~(b)(4)~~(c) "Warning sign" means a sign no smaller than 8.5 inches high by 11 inches wide, clearly readable, stating: "Warning: drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child. Call the Utah Department of Health and Human Services at INSERT MOST CURRENT TOLL-FREE NUMBER with questions or for more information" and "Warning: Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah." The two warning messages shall be in the same font size but different font styles that are no smaller than 36 point bold. The font size for the health department contact information shall be no smaller than 20 point bold.

R82-1-103. General Provisions.

(1) Authority. This rule is made pursuant to Section 32B-2-202, which authorizes the Commission to act as the general policymaking body regarding alcoholic product in the state and to adopt rules accordingly.

(2) Purpose. The purpose of this rule is to provide administrative guidance to the Department and members of the public.

(3) Definitions. As used in this rule, "cash-only" means:

- (a) cash;
- (b) certified check;
- (c) bank draft;
- (d) cashier's check; or
- (e) United States Post Office money order.

(4) The Department may assess the legal rate of interest pursuant to Title 15, Contracts and Obligations in General, for any debt or obligation owed to the Department by a licensee, permittee, package agent, or any other person.

(5) The Department shall assess a \$20 charge for any dishonored check payable to the Department if returned for the following reasons:

- (a) insufficient funds;
- (b) refer to maker; or
- (c) account closed.

(6)(a) Receipt of a check payable to the Department that is returned by the bank for any of the reasons listed in Subsection (5) may result in the immediate suspension of the license, permit, or operation of the package agency of the person tendering the check until legal tender of the United States of America, certified check, bank draft, cashier's check, or United States post office money order plus the \$20 charge described in Subsection (5) is received by the Department.

(b) Failure to make good the returned check and pay the \$20 charge within 30 days after the license, permit, or operation of the package agency is suspended, is grounds for revocation of the license or permit, or termination of the package agency contract, and the forfeiture of the licensee's, permittee's, or package agent's bond.

(7)(a) In addition to the remedies listed in Subsection (6), the Department may require that the licensee, permittee, or package agent transact business with the Department on a cash-only basis.

(b) The determination of when to put a licensee, permittee, or package agency operator on cash-only basis and the length of the cash-only restriction is at the discretion of the Department and based on the following factors:

- (i) the dollar amount of the returned check;
- (ii) the number of returned checks;
- (iii) the length of time the licensee, permittee, or package agency operator has had a license, permit, or package agency with the Department;
- (iv) the time necessary to collect the returned check; and
- (v) any other circumstances.

(8) A returned check received by the Department from or on behalf of an applicant for or holder of a single event permit or temporary beer event permit may, at the discretion of the Department, require that the person or entity that applied for or held the permit be on cash-only basis for any future event requiring a permit under Title 32B, Chapter 9, Event Permit Act.

(9) In addition to the remedies established in this rule, the Department may pursue any legal remedies to effect collection of any returned check.

(10) If a manufacturer and the Department have agreed to allow the manufacturer to ship an alcoholic beverage directly to a state store or package agency without being received and stored by the Department in the Department's warehouse, the manufacturer shall receive a credit equaling the case handling costs incurred by the Department for the product that is not warehoused by the Department.

(11) Pursuant to Section 32B-2-202, this rule authorizes the director to make internal Department policies in accordance with Section 32B-2-206 for Department duties, as described in Section 32B- 2-204, for listing and delisting products to include a program to place orders for products not kept for sale by the Department.

R82-1-104. Advertising.

(1) Authority. This rule is made pursuant to ~~[Subs]~~Section 32B-1-206, which authorizes the advertising of alcoholic product in this state under guidelines established by the Commission except to the extent prohibited by Title 32B, Alcoholic Beverage Control Act.

(2) Definitions.

(a)(i) For purposes of this rule, "advertisement" or "advertising" includes any written or verbal statement, illustration, or depiction which is calculated to induce alcoholic beverage sales, whether it appears in a newspaper, magazine, trade booklet, menu, wine card, leaflet, circular, mailer, book insert, catalog, promotional material, sales pamphlet, or any written, printed, graphic, or other matter accompanying the container, representations made on cases, billboard, sign, or other public display, public transit card, other periodical literature, publication or in a radio or television broadcast, or in any other media.

(ii) "Advertisement" or "advertising" does not mean:

(A) labels on products; or

(B) any editorial or other reading material in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any alcoholic beverage industry member or retailer, and which is not written by or at the direction of the industry member or retailer.

(b) For purposes of this rule, "minor" means a person under the age of 21 years.

(3) Application.

(a) This rule governs the regulation of advertising of alcoholic beverages sold within the state, except where the regulation of interstate electronic media advertising is preempted by federal law. This rule incorporates by reference the Federal Alcohol Administration Act, 27 U.S.C. 205(f) (1999), and 27 C.F.R. Parts 4, 5, 6, and 7 (2024). These provisions shall regulate the labeling and advertising of alcoholic beverages sold within this state, except where federal statutes and regulations are found to be contrary to or inconsistent with the provisions of the statutes and rules of this state.

(b) 27 C.F.R. Sec. 7.4 provides that federal laws apply only to the extent that the laws of a state impose similar requirements with respect to advertisements of malt beverages manufactured and sold or otherwise disposed of in the state. This rule, therefore, ~~adopts and~~ incorporates by reference federal laws, previously referenced in Subsection (3)(a) relating to the advertising of malt beverage products.

(4) Current statutes and rules restricting the advertising, display, or display of price lists of liquor products by the Department, state stores, or Type 1, 2 or 3 package agencies, as described in R82-2-301, are applicable.

(5) Any advertising of liquor and beer by manufacturers, suppliers, importers, local industry representatives, wholesalers, permittees, and licensed retailers of such products, and Type 4 and 5 package agencies, as described in R82-2-301, shall comply with the advertising requirements listed in Subsection (6).

(6) Advertising Requirements. Any advertising or advertisement authorized by this rule:

(a) may not violate any federal laws referenced in Subsection (3);

(b) may not contain any statement, design, device, or representation that is false or misleading;

(c) may not contain any statement, design, device, or representation that is obscene or indecent;

(d) may not refer to, portray or imply illegal conduct, illegal activity, abusive or violent relationships or situations, or anti-social behavior, except in the context of public service advertisements or announcements to educate and inform people of the dangers, hazards and risks associated with irresponsible drinking or drinking by persons under the age of 21 years;

(e) may not encourage over-consumption or intoxication, promote the intoxicating effects of alcohol consumption, or overtly promote increased consumption of alcoholic products;

(f) may not advertise any unlawful discounting practice such as "happy hour", "two drinks for the price of one", "free alcohol", or "all you can drink for \$...".

(g) may not encourage or condone drunk driving;

(h) may not depict the act of drinking;

(i) may not promote or encourage the sale to or use of alcohol by minors;

(j) may not be directed or appeal primarily to minors by:

(i) using any symbol, language, music, gesture, cartoon character, or childhood figure such as Santa Claus that primarily appeals to minors;

(ii) employing any entertainment figure or group that appeals primarily to minors;

(iii) placing advertising in magazines, newspapers, television programs, radio programs, or other media where most of the audience is reasonably expected to be minors, or placing advertising on the comic pages of magazines, newspapers, or other publications;

(iv) placing advertising in any school, college or university magazine, newspaper, program, television program, radio program, or other media, or sponsoring any school, college or university activity;

(v) using models or actors in the advertising that are or reasonably appear to be minors;

(vi) advertising at an event where most of the audience is reasonably expected to be minors; or

(vii) using alcoholic beverage identification, including logos, trademarks, or names on clothing, toys, games or game equipment, or other materials intended for use primarily by minors;

(k) may not portray use of alcohol by a person while that person is engaged in, or is immediately about to engage in, any activity that requires a high degree of alertness or physical coordination;

(l) may not contain claims or representations that individuals can obtain social, professional, educational, athletic, or financial success or status as a result of alcoholic beverage consumption, or claim or represent that individuals can solve social, personal, or physical problems as a result of such consumption;

(m) may not offer alcoholic beverages without charge;

(n) may not require the purchase, sale, or consumption of an alcoholic beverage ~~in order~~ to participate in any promotion, program, or other activity; and

(o) may provide information regarding product availability and price, and factual information regarding product qualities, but may not imply by use of appealing characters or life-enhancing images that consumption of the product will benefit the consumer's health, physical prowess, sexual prowess, athletic ability, social welfare, or capacity to enjoy life's activities.

(7) Violations. A violation of this rule may result in:

(a) any administrative penalties authorized by Section 32B-3-205; or

(b) the imposition of the criminal penalty of a class B misdemeanor pursuant to Section 32B-4-304.

R82-1-105. Label Approvals.

(1) Authority. This rule is made pursuant to Section 32B-1-607, which gives the Commission the authority to adopt rules necessary to implement Title 32B, Chapter 6, Malted Beverage Act.

(2) Purpose.

(a) Pursuant to Section 32B-1-604, a manufacturer may not distribute or sell in this state any malted beverage, including a beer, heavy beer, or flavored malt beverage, unless the label and packaging of the beverage is approved by the Department.

(b) The requirements and procedures for applying for label and packaging approval are set forth in Sections 32B-1-604 through 32B-1-606.

(c) This rule:

(i) provides supplemental procedures for applying for and processing label and package approvals;

(ii) defines the meaning of certain terms in the Malted Beverage Act; and

(iii) establishes the format of certain words and phrases required on the label and packaging of certain malted beverages as required by Section 32B-1-606.

(3) Application.

(a)(i) Except as provided in Subsection (3)(a)(iii) a complete set of original labels for each size of container must accompany each application for label and packaging approval, including all band, strip, front and back labels appearing on any individual container.

(ii) The Department may not accept an original container under Subsection (3)(a)(i).

(iii) If original labels cannot be obtained, the following may be accepted as part of the application:

(A) color reproductions that are exact size; or

(B) if printed in color, a copy of the federal certificate of label approval (COLA) from the Department of Treasury, Tax and Trade Bureau Form TTB F5100.31 with the exact size label.

(b) An application for approval is required for any material revision of a previously approved label or packaging, including a revision to a label or packaging that relates to subject matter other than the required notice that the product is an alcoholic beverage, such as temporary seasonal or promotional themes.

(c) The statement "alcoholic beverage" or "contains alcohol" and the statement of alcohol content as a percentage of alcohol by volume or weight included on a malted beverage under Section 32B-1-606 shall appear:

(A) in capital letters and bold type;

(B) in a solid contrasting background;

(C) on the front of the container and packaging;

(D) in a format that is readily legible; and

(E) separate and apart from any descriptive or explanatory information.

(d) The Department may consider the following elements of the label or packaging of a malted beverage when determining whether the label or packaging must be rejected under Subsection 32B-1-606(3)(b):

(i) color palette;

(ii) font size and type;

(iii) imagery;

(iv) placement of words, images, or descriptions;

(v) references to alcohol content that are not statutorily required; and

(vi) container type or shape.

R82-1-106. Alcohol Content.

(1) This rule is made pursuant to ~~[s]~~Sections 32B-1-607, which authorizes the Commission to make rules implementing Part 6, and 32B-2-204, which authorizes the Department to make rules related to measuring the alcohol content of beer.

(2) Before November 1, 2019, a product complies with Title 32B and rules governing labeling if:

(a) the product is beer and if, after sampling, it is determined to contain no more than 3.35% alcohol by weight or 4.18% alcohol by volume; or

(b) the product is heavy beer and if, after sampling, it is determined to contain at least 3.82% alcohol by volume.

(3) On or after November 1, 2019, a product complies with Title 32B and rules governing labeling if:

(a) the product is beer and if, after sampling, it is determined to contain no more than 4.15% alcohol by weight or 5.18% alcohol by volume; or

(b) the product is heavy beer and if, after sampling, it is determined to contain at least 4.82% alcohol by volume.

R82-1-107. Department Training Programs.

(1) Authority and general purpose. This rule is pursuant to Section 32B-1-704, which requires that the Department to make rules to develop and implement the retail manager, interdicted person verification, and violation training programs.

(2) Application of the rule.

(a) The requirements for the retail manager, interdicted person verification, and violation training programs described in ~~[s]~~Section 32B-1-704.

(b) The Department shall accurately identify each individual who takes and completes a training program by maintaining a database in which individuals are identified by the last four digits of their social security number or another four-digit number that the individual chooses and can remember.

(c) The Department will administer a test to ensure an individual taking a training program is focused and actively engaged in the training material throughout the training program.

(d) The Department shall issue a certification card to each individual who has completed a training program. Each licensee shall keep a copy of the card on the licensed premise for each individual required to complete the training program.

(e) A fee of \$25 will be charged to each individual for participation in a training program to cover the Department's cost of providing the training program.

R82-1-208. Percentage Lease Agreements.

(1) The authority for this rule is Section 32B-1-208.

(2) This rule establishes the following:

(a) the maximum percentage of revenue from alcohol sales a percentage lease agreement may require; and

(b) the procedure for submitting a percentage lease to the [d]Department.

(3) As used in this section, "Percentage lease" means the same as in Section 32B-1-208.

(4)(a) The maximum percentage of revenue from alcohol sales allowed in a percentage lease is 19%, whether that percentage is:

(i) described through a rent-sharing or profit-sharing agreement;

(ii) calculated in part on the gross sales or profits of the licensee, including profits from the sale of alcoholic beverages; or

(iii) described in the percentage lease in some other manner.

(b) Parties to a percentage lease must submit a copy to the [d]Department for review as part of the application for licensing.

(c) If during the review process, the Department cannot determine how alcohol sales in a percentage lease agreement are being shared, based on the language in the percentage lease agreement, the [d]Department staff shall return the lease agreement and license application, and the Commission may decline to act on the application.

(d) An applicant may resubmit a lease once the language in the lease is sufficiently clear for the Department to determine that no more than 19% of profits from the sale of alcoholic beverages will be distributed to a lessor.

(e) The lessor cannot control or acquire an ownership interest in the business of the lessee.

(f) An industry representative is prohibited from profit-sharing and ownership of retail license operations.

R82-1-304. Background Checks for Resort Licensees.

(1) The authority for this rule is Subsection 32B-1-304(7)(a).

(2) This rule describes what "engages in the management" of a resort means for purposes of determining which individuals must undergo a background check as part of the application process for a resort license.

(3) As used in this section, "engages in the management of a resort licensee" means manages or controls:

(a) the daily operations of the business entity of the resort licensee; or

(b) the finances of the resort licensee.

(4) An individual who engages in the management of a resort licensee shall undergo a background check as part of the application process for obtaining or renewing a resort license.

R82-1-304.1. Background Checks for Public Service Permittees.

(1) The authority for this rule is Subsection 32B-1-304(7)(b).

(2) This rule describes what "engages in the management" of the airline, railroad, or other public conveyance means for the purposes of determining which individuals must undergo a background check as part of the application process for a public service permit.

(3) As used in this section, "engages in the management of the airline, railroad, or other public conveyance means manages or controls:

(a) the daily operations of the local branch of the entity that holds the public service permit; or

(b) the finances of the local branch of the entity that holds the public service permit.

(4) An individual who engages in the management of the airline, railroad, or other public conveyance shall undergo a background check as part of the application process for obtaining or renewing a public service permit.

KEY: alcoholic beverages

Date of Last Change: 2025[November 22, 2024]

Notice of Continuation: February 5, 2025

Authorizing, and Implemented or Interpreted Law: 32B-1-102; 32B-2-202; 32B-1-206; 32B-1-606; 32B-1-607

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:

R82-2

Filing ID: 57135

Agency Information

1. Title catchline:

Alcoholic Beverage Services, Administration

Street address:

1625 S 900 W

NOTICES OF PROPOSED RULES

City, state:	Salt Lake City, UT	
Mailing address:	PO Box 30408	
City, state and zip:	Salt Lake City, UT 84130-0408	
Contact persons:		
Name:	Phone:	Email:
Brian Swan	801-977-6801	bswan@utah.gov
Vickie Ashby	801-977-6801	vickieashby@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R82-2. Administration
3. Purpose of the new rule or reason for the change:
This rule change addresses redundancy from statute; clarifies the Department of Alcoholic Beverage Services' (Department) division; removal of quorum requirement for subcommittees; and makes technical corrections.
4. Summary of the new rule or change:
<p>This rule:</p> <ul style="list-style-type: none"> 1) removes the GRAMA section since it offers nothing new or different than what is in statute; 2) makes technical corrections; 3) updates the name of the Department's division of consumer purchasing and merchandising; and 4) removes the quorum requirement for subcommittees since subcommittees are no longer required to be public meetings under Title 32B.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This rule is not expected to have a fiscal impact on the state budget because the rule changes are technical in nature or consistent with current and previous Department practice.
B) Local governments:
No fiscal impact because the rule changes are technical in nature or consistent with current and previous Department practice.
C) Small businesses ("small business" means a business employing 1-49 persons):
No fiscal impact because the rule changes are technical in nature or consistent with current and previous Department practice.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
No fiscal impact because the rule changes are technical in nature or consistent with current and previous Department practice.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):
No fiscal impact because the rule changes are technical in nature or consistent with current and previous Department practice.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
No fiscal impact because the rule changes are technical in nature or consistent with current and previous Department practice.

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

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

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

The Executive Director of the Department of Alcoholic Beverage Services, Tiffany Clason, 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 32B-2-202		
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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:	06/17/2025
--	------------

9. This rule change MAY become effective on:	06/24/2025
---	------------

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:	Tiffany Clason, Executive Director	Date:	04/28/2025
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R82. Alcoholic Beverage Services, Administration.

R82-2. Administration.

R82-2-101. Notice of Hearings.

(1) ~~[These rules are]~~ This rule is adopted pursuant to ~~[section]~~ Section 32B-2-202 regarding the administration of the Department and Commission. They shall be interpreted so as to be consistent with the Alcoholic Beverage Control Act.

(2) Notice of hearings, other than disciplinary hearings. Public notice shall be made no less than ~~[40]~~ ten business days before to the day on which the hearing is scheduled to be held.

(3) The rule governing disciplinary hearings is R82-3-103.

R82-2-102. Emergency Meetings.

(1) Purpose. There may be times when, due to the necessity of considering matters of an emergency or urgent nature, the public notice provisions of Section 52-4-202 cannot be met. Pursuant to [s]Subsection 52-4-202(5), under such circumstances those notice requirements need not be followed but rather the "best notice practicable" shall be given.

(2) Authority. This rule is enacted under the authority of [s]Sections 63G-3-201 and 32B-2-202.

(3) Procedure. In addition to the requirements of [s]Subsection 52-4-202(5), in convening the meeting and voting in the affirmative to hold such an emergency meeting, the Commission shall affirmatively state and find what unforeseen circumstances have rendered it necessary for the Commission to hold an emergency meeting to consider matters of an emergency or urgent nature.

R82-2-103. Electronic Meetings.

(1) Purpose. Section 52-4-207 requires any public body that convenes or conducts an electronic meeting to establish written procedures for such meetings. This rule establishes procedures for conducting Commission meetings by electronic means.

(2) Authority. This rule is enacted under the authority of [s]Sections 52-4-207, 63G-3-201 and 32B-2-202.

(3) Procedure. The following provisions govern any meeting at which one or more Commissioners appear telephonically or electronically pursuant to [s]Section 52-4-207:

(a) If one or more members of the Commission may participate electronically or telephonically, public notices of the meeting shall so [indicate]state. In addition, the notice shall specify the anchor location where the members of the Commission not participating electronically or telephonically will be meeting and where interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

(b) Notice of the meeting and the agenda shall be posted at the anchor location. Written or electronic notice shall also be provided to at least one newspaper of general circulation within the state or to a local media correspondent. These notices shall be provided at least 24 hours before the meetings.

(c) Notice of the possibility of an electronic meeting shall be given to the Commissioners at least 24 hours before the meeting. In addition, the notice shall describe how a Commissioner may participate in the meeting electronically or telephonically.

(d) When notice is given of the possibility of a commissioner appearing electronically or telephonically, any Commissioner may do so and shall be counted as present for purposes of a quorum and may fully participate and vote on any matter coming before the Commission. At the commencement of the meeting, or at such time as any Commissioner initially appears electronically or telephonically, the Chair shall identify for the record all those who are appearing telephonically or electronically. Votes by members of the Commission who are not at the physical location of the meeting shall be confirmed by the Chair.

(e) The anchor location, unless otherwise designated in the notice, shall be at the offices of the Department of Alcoholic Beverage Services, 1625 S. 900 West, Salt Lake City, Utah. The anchor location is the physical location from which the electronic meeting originates or from which the participants are connected. In addition, the anchor location shall have space and facilities so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

~~[R82-2-104. Utah Government Records and Access Management Act.~~

~~(1) Purpose. To provide procedures for access to government records of the Commission and the Department.~~

~~(2) Authority. The authority for this rule is subsections 63G-2-204(2)(d) and 63A-12-104 of the Government Records Access and Management Act (GRAMA).~~

~~(3) Requests for Access. Requests for access to government records of the Commission or the Department should be written and made to the executive secretary of the Commission or the records officer of the Department, as the case may be, at the following address: Department of Alcoholic Beverage Services, 1625 S. 900 West, P.O. Box 30408, Salt Lake City, Utah 84130-0408.~~

~~(4) Fees. A fee schedule for the direct and indirect costs of duplicating or compiling a record may be obtained from the Commission and the Department by contacting the appropriate official specified in paragraph (3) above. The Department may require payment of past fees and future estimated fees before beginning to process a request if fees are expected to exceed \$50 or if the requester has not paid fees from previous requests. Fees for duplication and compilation of a record may be waived under certain circumstances described in subsection 63G-2-203(4). Requests for this waiver of fees must be made to the appropriate official specified in subpart (3) of this rule.~~

~~(5) Requests for Access for Research Purposes. Access to private or controlled records for research purposes is allowed by section 63G-2-202(8). Requests for access to these records for research purposes may be made to the appropriate official specified in paragraph (3) above.~~

~~(6) Intellectual Property Rights. Whenever the Commission or Department determines that it owns an intellectual property right to a portion of its records, it may elect to duplicate and distribute, or control any materials, in accordance with the provisions of section 63G-2-201(10). Decisions affecting records covered by these rights will be made by the appropriate official specified in subpart (3) of this rule. Any questions regarding the duplication and distribution of materials should be addressed to that individual.~~

~~(7) Requests to Amend a Record. An individual may contest the accuracy or completeness of a document pertaining to him pursuant to section 63G-2-603. The request should be made to the appropriate official specified in subpart (3) of this rule.~~

~~(8) Time Periods Under GRAMA. The provisions of Rule 6 of the Utah Rules of Civil Procedure shall apply to calculate time periods specified in GRAMA.~~

[R82-2-10]54. Americans with Disabilities Act Grievance Procedures.

(1) Authority and Purpose.

(a) This rule is made under authority of [sections]-Sections 32B-2-202 and 63G-3-201. As required by 28 CFR 35.107, the Department of Alcoholic Beverage Services, as a public entity that employs more than 50 persons, adopts and publishes the grievance

procedures within this rule for the prompt and equitable resolution of complaints alleging any action prohibited by Title II of the Americans with Disabilities Act, as amended.

(b) The purpose of this rule is to implement the provisions of 28 CFR 35 which in turn implements Title II of the Americans with Disabilities Act, which provides that no individual shall be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by the Department because of a disability.

(2) Definitions.

(a) "ADA Coordinator" means the employee assigned by the executive director to investigate and facilitate the prompt and equitable resolution of complaints filed by qualified persons with disabilities. The ADA Coordinator may be a representative of the Department of Human Resource Management assigned to the Department.

(b) "Department" means the Department of Alcoholic Beverage Services.

(c) "Designee" means an individual appointed by the executive director or a director to investigate allegations of ADA non[-]compliance in the event the ADA Coordinator is unable or unwilling to conduct an investigation for any reason, including a conflict of interest. A designee does not have to be an employee of the Department; however, the designee must have a working knowledge of the responsibilities and obligations required of employers and employees by the ADA.

(d) "Director" means the head of the division of the Department affected by a complaint filed under this rule.

(e) "Disability" means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

(f) "Executive Director" means the executive director of the Department.

(g) "Major life activities" include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, and working. A major life activity also includes the operation of a major bodily function, such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

(h) "Qualified Individual" means an individual who meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the Department. A "qualified individual" is also an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that individual holds or desires.

(3) Filing of Complaints.

(a) Any qualified individual may file a complaint alleging noncompliance with Title II of the Americans with Disabilities Act, as amended, or the federal regulations promulgated thereunder.

(b) Qualified individuals shall file their complaints with the Department's ADA Coordinator, unless the complaint alleges that the ADA Coordinator was non-compliant, in which case qualified individuals shall file their complaints with the Department's designee.

(c) Qualified individuals shall file their complaints within 90 days after the date of the alleged noncompliance to facilitate the prompt and effective consideration of pertinent facts and appropriate remedies; however, the Executive Director has the discretion to direct that the grievance process be utilized to address legitimate complaints filed more than 90 days after alleged noncompliance.

(d) Each complaint shall:

(i) include the complainant's name and address;

(ii) include the nature and extent of the individual's disability;

(iii) describe the Department's alleged discriminatory action in sufficient detail to inform the Department of the nature and date of the alleged violation;

(iv) describe the action and accommodation desired; and

(v) be signed by the complainant or by ~~his or her~~ their legal representative.

(e) Complaints filed on behalf of classes or third parties shall describe or identify by name, if possible, the alleged victims of discrimination.

(f) If the complaint is not in writing, the ADA coordinator or designee shall transcribe or otherwise reduce the complaint to writing upon receipt of the complaint.

(g) By the filing of a complaint or a subsequent appeal, the complainant authorizes necessary parties to conduct a confidential review all relevant information, including records classified as private or controlled under the Government Records Access and Management Act, S[s]ubsection 63G-2-302(1)(b) and S[s]ection 63G-2-304, consistent with 42 U.S.C. 12112(d)(4)(A), (B), and (C) and 42 U.S.C. 12112(d)(3)(B) and (C), and relevant information otherwise protected by statute, rule, regulation, or other law.

(4) Investigation of Complaints.

(a) The ADA coordinator or designee shall investigate complaints to the extent necessary to assure all relevant facts are collected and documented. This may include gathering all information listed in Subsection (3)(d) and subpart (g) of this rule if it is not made available by the complainant.

(b) The ADA coordinator or designee may seek assistance from the Attorney General's staff, and the Department's human resource and budget staff in determining what action, if any, should be taken on the complaint. The ADA coordinator or designee may also consult with the director of the affected division in making a recommendation.

(c) The ADA coordinator or designee shall consult with representatives from other state agencies that may be affected by the decision, including the Office of Planning and Budget, the Department of Human Resource Management, the Division of Risk Management, the Division of Facilities Construction Management, and the Office of the Attorney General before making any recommendation that would:

(i) involve an expenditure of funds beyond what is reasonably able to be accommodated within the applicable line item so that it would require a separate appropriation;

(ii) require facility modifications; or

(iii) require reassignment to a different position.

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(5) Recommendation and Decision.

(a) Within 15 working days after receiving the complaint, the ADA coordinator or designee shall recommend to the director what action, if any, should be taken on the complaint. The recommendation shall be in writing or in another accessible format suitable to the complainant.

(b) If the ADA coordinator or designee ~~is unable to~~ cannot make a recommendation within the 15 working day period, the complainant shall be notified in writing, or in another accessible format suitable to the complainant, stating why the recommendation is delayed and what additional time is needed.

(c) The director may confer with the ADA coordinator or designee and the complainant and may accept or modify the recommendation to resolve the complaint. The director shall render a decision within 15 working days after the director's receipt of the recommendation from the ADA coordinator or designee. The director shall take all reasonable steps to implement the decision. The director's decision shall be in writing, or in another accessible format suitable to the complainant, and shall be promptly delivered to the complainant.

(6) Appeals.

(a) The complainant may appeal the director's decision to the executive director within ~~[40]~~ten working days after the complainant's receipt of the director's decision.

(b) The appeal shall be in writing or in another accessible format reasonably suited to the complainant's ability.

(c) The executive director may name a designee to assist on the appeal. The ADA coordinator and the director's designee may not also be the executive director's designee for the appeal.

(d) In the appeal the complainant shall describe in sufficient detail why the decision does not effectively address the complainant's needs.

(e) The executive director or designee shall review the ADA coordinator's recommendation, the director's decision, and the points raised on appeal before reaching a decision. The executive director may direct additional investigation as necessary. The executive director shall consult with representatives from other state agencies that would be affected by the decision, including the Office of Planning and Budget, the Department of Human Resource Management, the Division of Risk Management, the Division of Facilities Construction Management, and the Office of the Attorney General before making any decision that would:

(i) involve an expenditure of funds beyond what is reasonably able to be accommodated within the applicable line item so that it would require a separate appropriation;

(ii) require facility modifications; or

(iii) require reassignment to a different position.

(f) The executive director shall issue a final decision within 15 working days after receiving the complainant's appeal. The decision shall be in writing, or in another accessible format suitable to the complainant, and shall be promptly delivered to the complainant.

(g) If the executive director or designee ~~is unable to~~ cannot reach a final decision within the 15 working day period, the complainant shall be notified in writing, or by another accessible format suitable to the complainant, why the final decision is being delayed and the additional time needed to reach a final decision.

(7) Record Classification.

(a) Records created in administering this rule are classified as "protected" under ~~[subsections]~~Subsections 63G-2-305(9), (22), (24), and (25).

(b) After issuing a decision under subpart (5) or a final decision upon appeal under subpart (6), portions of the record pertaining to the complainant's medical condition shall be classified as "private" under ~~[subsection]~~Subsection 63G-2-302(1)(b) or "controlled" under ~~[s]~~Section 63G-2-304, consistent with 42 U.S.C. 12112(d)(4)(A), (B), and (C) and 42 U.S.C. 12112(d)(3)(B) and (C), at the option of the ADA coordinator.

(c) The written decision of the division director or executive director shall be classified as "public," and all other records, except controlled records under subpart (7)(b), classified as "private."

(8) Relationship to Other Laws. This rule does not prohibit or limit the use of remedies available to individuals under:

(a) the state Anti-Discrimination Complaint Procedures, ~~[s]~~Sections 34A-5-107 and 67-19-32;

(b) the Federal ADA Complaint Procedures, 28 CFR 35.170 through 28 CFR 35.178; or

(c) any other Utah or federal law that provides equal or greater protection for the rights of individuals with disabilities.

R82-2-10[6]5. Sales Restrictions on Products of Limited Availability and Rare, High Demand Products.

(1) Authority and Purpose. This rule is pursuant to ~~[s]~~Sections 32B-1-103, which requires that alcoholic product control be operated as a public business using sound management principles, and 32B-2-202, which authorizes the Department to control liquor merchandise inventory. Some alcoholic beverage products are of very limited availability from their manufacturers and suppliers to retailers including the Department. When the Department perceives that customer demand for these limited products may exceed the Department's current and future stock levels, the Department, as a public agency, may place restrictions on their sales to ensure their fair distribution to all consumers. This also encourages manufacturers and suppliers to continue to provide their products to the Department. This rule establishes the procedure for allocating rare, high demand products and products of limited availability.

(2) Application of Rule.

(a) The purchasing and wine divisions of the Department shall identify those products that are of limited availability and designate them as "Limited /Allocated Status" (~~["]~~L Status~~["]~~) items. The products shall be given a special "L Status" product code designation.

(b) "L Status" products on the Department's price list, in stock, or on order, that do not have to be sold on demand. Their sales to the general public and to licensees and permittees may be restricted. The ~~[purchasing and wine divisions of the]~~Department's division of consumer purchasing and merchandising may issue system-wide restrictions directing the allocation of such products which may include placing limits on the number of bottles sold per customer.

(c) Signs noting this rule shall be posted in state stores and package agencies that carry "L Status" products.

(3) The Department may make policies governing procedures for the fair distribution of rare, high demand products, including policies for a drawing, when the director determines a special procedure is appropriate.

R82-2-10[7]6. Criminal History Background Checks.

(1) Authority. This rule is made pursuant to:

(a) the Commission's powers and duties under Section 32B-2-202 to set policy by written rules that establish criteria and procedures for granting, denying, suspending, or revoking a license, permit, or package agency;

(b) Sections 32B-1-301 through 32B-1-307 that prohibit certain persons who have been convicted of certain criminal offenses, including a crime involving moral turpitude, from being employed by the Department or from holding or being employed by the holder of an alcoholic beverage license, permit, or package agency;

(c) Sections 32B-1-301 through 32B-1-307 that allow for the Department to require criminal history background check reports on certain individuals; and

(d) Section 32B-1-102, which authorizes the Commission to define "crime involving moral turpitude."

(2)(a) As used in this rule, "crime involving moral turpitude" means a crime that:

(i) involves actions done knowingly contrary to justice, honesty, or good morals;

(ii) is immoral in itself regardless of whether the crime is punishable by law; and involves an element of falsification or fraud or of harm or injury directed to another person or another person's property.

(b) "Crime of moral turpitude" includes a crime involving controlled substances, illegal drugs, or narcotics.

(3) Purpose. This rule:

(a) establishes the circumstances under which a person identified in the statutory sections enumerated in Subsection (1)(b), must submit to a background check to show the person meets the qualifications of those statutory sections as a condition of employment with the Department, or as a condition of the Commission granting a license, permit, or package agency to an applicant for a license, permit, or package agency; and

(b) establishes the procedures for the filing and processing of criminal history background checks.

(4) Application.

(a)(i) Except to the extent provided in Subsections (3)(a)(ii) through (iv), a person identified in Subsection (1)(b) shall consent to a criminal background check by Utah Bureau of Criminal Identification, Department of Public Safety ([²]B.C.I.[²]) and the Federal Bureau of Investigation ([²]F.B.I.[²]).

(ii) A person identified in Subsection (1)(b) who submitted a criminal background check on or after July 1, 2015, is not required to submit to a background check if the Department can confirm that the individual has maintained a regulatory or employment relationship as outlined in the Department's privacy risk mitigation strategy required by Subsection 32B-1-307(4)(b).

(iii) An applicant for an event permit under Title 32B, Chapter 9, Event Permit Act, is not required to submit to a background check if the applicant attests that the persons identified in Subsection (1)(b) have not been convicted of any disqualifying criminal offense.

(iv) An applicant for employment with benefits with the Department ~~is required to~~ shall submit to a background check if the Department has made the decision to offer the applicant employment with the Department.

(b) An application that requires a background check may be included on a Commission meeting agenda, and may be considered by the Commission for issuance of a license, permit, or package agency if:

(i) the applicant has completed the requirements to apply for the license, permit, or package agency other than the Department receiving the required criminal history background report;

(ii) the applicant attests in writing that the applicant is not aware of any criminal conviction of any person identified in Subsection (1)(b) that would disqualify the applicant from applying for and holding the license, permit, or package agency;

(iii) the applicant has submitted to a background check in a form acceptable to the Department; and

(iv) the applicant stipulates in writing that if a criminal history background report shows a criminal conviction that would disqualify the applicant from holding the license, permit, or package agency, the applicant shall immediately surrender the license, permit, or package agency to the Department.

(c) The Commission may issue a license, permit, or package agency to an applicant that has met the requirements of Subsection (4)(b), and the license, permit, or package agency shall be valid during the period the B.C.I. and F.B.I. is processing the criminal history report~~(4)(b)~~.

(d) Upon the Department's receipt of the criminal history background report:

(i) if there is no disqualifying criminal history, the license, permit, or package agency shall continue for the balance the license or permit period, or the package agency contract period; or

(ii) if there is a disqualifying criminal history, Department staff shall:

(A) inform the licensee, permittee, or package agency and ask them to either surrender the license or remove the individual with the disqualifying criminal history from their position; and

(B) if the licensee, permittee, or package agency does not comply with Subsection (4)(d)(ii)(A), issue an order to show cause and the Commission may enter an order accepting a surrender or an order revoking the license, permit, or package agency, depending on the circumstances.

(e) In the case of a license or permit, if the statutory deadline for renewing the license or permit occurs before receipt of criminal history background report, the licensee or permittee may file for renewal of the license or permit subject to meeting the requirements in this Subsection (4).

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(f) An applicant for employment with benefits with the Department that requires a background check may be conditionally hired by the Department before receipt of the report if:

(i) the applicant attests in writing that the applicant is not aware of any criminal conviction that would disqualify the applicant from employment with the Department;

(ii) the applicant has submitted to a background check in a form acceptable to the Department; and

(iii) the applicant stipulates in writing that if a criminal history background report shows a criminal conviction that would disqualify the applicant from employment with the Department, the applicant shall terminate the applicant's employment with the Department.

(5) Failure to comply with this rule or statutory requirements governing background check information is a basis for the Department to issue an Order to Show Cause.

R82-2-10[8]7. Duties of Commission Subcommittees.

(1) Authority. This rule is made pursuant to Section 32B-2-201.5 and shall govern the duties of the two Commission subcommittees, the Compliance Licensing and Enforcement Subcommittee and the Operations and Procurement Subcommittee.

(2)(a) The Compliance Licensing and Enforcement Subcommittee will review and discuss items related to compliance, licensing and enforcement and make recommendations to the full Commission on those items.

(b) The Operations and Procurement Subcommittee will review and discuss items related to operations and procurement and make recommendations to the full Commission on those items.

(3) Subsection (2) does not prohibit:

(a) the Compliance Licensing and Enforcement Subcommittee from reviewing, discussing, or making recommendations to the full Commission on items related to operations or procurement; or

(b) the Operations and Procurement Subcommittee from reviewing, discussing, or making recommendations on items related to compliance, licensing, or enforcement.

(4) If a quorum of the full Commission is present, the subcommittee may act on all agenda action items.

[~~—(5) A subcommittee quorum is all four standing members.~~
]

R82-2-201. Liquor Returns, Refunds and Exchanges.

(1) Purpose. This rule establishes guidelines for accepting liquor returns, refunds and exchanges by a state store or a package agency.

(a) The authority for this rule is Section 32B-2-202, which authorizes the Department to control liquor merchandise inventory in the state.

(2) Application of Rule.

(a) Unsaleable Product. Unsaleable product includes product that is spoiled, leaking, contains foreign matter, or is otherwise defective. The Department will accept for refund or exchange liquor merchandise that is unsaleable subject to the following conditions and restrictions:

(i) Returns of unsaleable merchandise are subject to approval by the store manager or package agent to verify that the product is indeed defective.

(ii) The product must be returned within a reasonable time of the date of purchase. Discontinued products may not be returned. Vintages of wine that are not currently being retailed by the Department may not be returned.

(iii) No refunds shall be given for wines returned due to spoilage such as corkiness, oxidation, and secondary fermentation, or due to the customer's unfamiliarity with the characteristics of the product. Such wines may only be exchanged for another bottle of the same product. Wine will not be accepted for refund or exchange if the return is a result of improper extraction of the cork.

(b) Saleable Product. Store managers and package agents are authorized to accept saleable returned merchandise from licensees, single event permit holders, convention groups, and individual customers, subject to the following conditions and restrictions:

(i) Returns of saleable merchandise are subject to approval by the store manager or package agent. The customer may receive a refund or exchange of product for the return. Large returns will be accepted from licensees, single event permittees, convention groups and other organizations only if prior arrangements have been made with the store manager.

(ii) Returns should be made within a reasonable amount of time from the date of purchase, and all returned merchandise must be in good condition. Returns of \$50 or more ~~shall~~ will not be accepted without a receipt. Therefore, it is necessary for cashiers to print a receipt for all purchases of \$50 or more. Signs should be posted at each cash register informing customers of this requirement. Merchandise shall be refunded at the price paid by the customer, or the current price, whichever is lower.

(iii) Wine and beer, due to their perishable nature and susceptibility to temperature changes, should be accepted back with caution. These products can only be returned if the store manager has personal knowledge of how they have been handled and stored.

(iv) If the total amount of the return is more than \$500, the store manager or package agent shall fill out a Returned Merchandise Acknowledgment Receipt (LQ-45), and submit a copy to the office. A refund check will be processed at the office and mailed to the customer. Customers need to be informed that it generally takes three to six weeks to process payment.

(v) If the total value of the returned merchandise is more than \$1,000, a 10% restocking fee shall be charged on the total amount.

(c) Unreturnable Products. The following items may not be returned:

(i) All limited item wines - wines that are available in very limited quantities.

(ii) Any products that have been chilled, over-heated, or label damaged.

(iii) Outdated, including not listed on the Department's product~~[/]~~ or price list, and discontinued products.

(iv) Merchandise purchased by catering services.

(d) A cash register return receipt shall be completed for each product return. The following information must be on the receipt: the customer's name, address, telephone number, driver's license number, and signature. The cashier must attach the receipt to the cash register closing report.

R82-2-202.1. Late License Renewals.

(1) Authority. This rule is made pursuant to Section 32B-2-202, which authorizes the Commission to make rules permitting and establishing the parameters of late license renewals.

(2) Definitions. For purposes of this rule, "late renewal" means the Department's receipt, after the date of the statutory renewal deadline related to the license at issue, of the requisite documents and payment to renew a license.

(3) Application.

(a) The Department may not accept a late renewal for a license after the 10th day of the month that follows the statutory renewal deadline for that license type. If the 10th of the month falls on a Saturday, Sunday, or state or federal holiday, the Department shall consider a completed renewal application that is received on the next business day following the Saturday, Sunday, or holiday.

(b) A licensee who fails to meet the deadline established in this rule must apply for a new license.

(c) The licensee seeking late renewal shall submit to the Department:

(i) each document required for renewal for the specific license type;

(ii) the statutory renewal fee for that license; and

(iii) a late fee either prescribed in Section 32B-2-202 or adopted in accordance with Section 63J-1-504.

R82-2-202. Payment for Liquor.

~~[(4)]~~Accepting Licensee Payments: Pursuant to ~~[s]~~Subsection 32B-5-303(1)(c), this rule requires that payments collected by the Department from licensees for the purchase of liquor come from the licensee and authorizes the Department to make internal Department policies in accordance with ~~[s]~~Subsections 32B-2-206(1), (2) and (5) for the acceptance of payments for liquor.

R82-2-203. State Store Hours.

(1) Authority and purpose: As authorized by ~~[subsection-]~~Subsection 32B-2-503(5)(b), this rule establishes the days and hours for state stores operations.

(2) Authorized days of operation: State stores may not operate on any day prohibited by ~~[subsection-]~~Subsection 32B-2-503(5)(a).

(3) Authorized hours of operation: Pursuant to ~~[subsection-]~~Subsections 32B-2-202(1)(b) and (k) and in accordance with ~~[s]~~Subsections 32B-2-206(1) and (2), this rule authorizes the director to set hours of operations for each state store and establish internal Department policies for sales during operational hours based on the following factors:

(a) the locality of the store;

(b) tourist traffic;

(c) demographics;

(d) population to be served;

(e) customer demand in the area;

(f) whether the store is designed for licensee sales; and

(g) budgetary constraints.

R82-2-204. Industry Members in State Stores.

An industry member, as defined in Section 32B-4-702, shall be limited to the customer areas of a state store except as follows:

(1) An industry member may be allowed in the storage area of a state store with the approval of the store manager for the limited purpose of stocking the industry member's own products; and

(2) An industry member may be allowed in the office or other suitable area of a state store with the approval of the store manager to ~~[for the purpose of discussing-]~~discuss the industry member's products.

R82-2-205. Store Site Selection.

(1) This rule is made pursuant to ~~[s]~~Section 32B-2-202, which requires that criteria and procedures be established for determining the location of a state store.

(2) Before the ~~[e]~~Commission establishes a new state store, the Operations and Procurement Subcommittee will:

(a) determine the feasibility of a new site;

(b) weigh options;

(c) consider the investigation and recommendation of the Department as outlined in ~~[s]~~Section 32B-2-502; and

(d) make its recommendation to the Commission.

R82-2-301. Types of Package Agencies.

(1) This rule is made pursuant to ~~[s]~~Section 32B-2-202, which authorizes the Commission to make rules governing package agencies.

(2) Package agencies are retail liquor outlets operated by private persons under contract with the Department for the purpose of selling packaged liquor from facilities other than state liquor stores for off-~~[-]~~premise consumption. Package agencies are classified into five types:

(a) Type 1 - A package agency under contract with the Department which is operated in conjunction with a resort environment (~~[e.g.,]~~ for example: hotel, ski lodge, summer recreation area).

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(b) Type 2 - A package agency under contract with the Department which is in conjunction with another business where the primary source of income to the operator is not from the sale of liquor.

(c) Type 3 - A package agency under contract with the Department, which is not in conjunction with another business, but is in existence for the main purpose of selling liquor.

(d) Type 4 - A package agency under contract with the Department which is located within a facility approved by the Commission ~~[for the purpose of] to sell and deliver [selling and delivering]~~ liquor to tenants or occupants of specific rooms which have been leased, rented, or licensed within the same facility. A type 4 package agency shall not be open to the general public. A type 4 package agency may also sell liquor other than in a sealed container, ~~[i.e. by the drink.]~~ as part of room service.

(e) Type 5 - A package agency under contract with the Department which is at a manufacturing facility that has been granted a manufacturing license by the Commission.

(3) The Commission may grant type 4 package agency privileges to a type 1 package agency.

R82-2-302. Advertising, Promotion, and Listing of Products.

(1) Authority. This rule is made pursuant to Section 32B-1-206, which authorizes the Commission to make rules regarding how the Department or a package agency may advertise an alcoholic product.

(2) A package agency may not advertise alcoholic beverages except:

(a) a Type 1 package agency, as described in Section R82-2-301, may provide informational signs on the premises of the hotel or resort directing persons to the location of the hotel's or resort's Type 1 package agency;

(b) a Type 2 package agency, as described in Section R82-2-301, may provide informational signs on the premises of its business directing persons to the location of the Type 2 package agency within the business; and

(c) a Type 5 package agency, as described in Section R82-2-301, may advertise the location of the winery, distillery, or brewery and the Type 5 package agency, and may advertise the alcoholic beverage products produced by the winery, distillery, or brewery and sold at the Type 5 package agency under the guidelines of Section R82-1-104 for advertising alcoholic beverages.

(3) A package agency may not display price lists in windows or showcases visible to passersby except:

(a) a Type 1 package agency, as described in Section R82-2-301, may provide a price list in each guest room of the hotel or resort containing the code, number, brand, size and price of each item it carries for sale at the Type 1 package agency;

(b) a Type 4 package agency, as described in Section R82-2-301, may provide a price list of the code number, brand, size, and price of each item it carries for sale to the tenants or occupants of the specific leased, rented, or licensed rooms within the facility; and

(c) a Type 5 package agency, as described in Section R82-2-301, may provide a price list of the code, number, brand, size, and price of each liquor item it carries for sale at the Type 5 package agency as follows:

(i) on the premises of the winery, distillery, brewery, or authorized tasting room;

(ii) at the entrance of the Type 5 package agency;

(iii) over the phone; or

(iv) on the internet.

R82-2-303. Non-Consignment Inventory.

(1) This rule is adopted pursuant to Section 32B-2-202, which authorizes the Commission to make rules governing package agencies.

(2) Type 1, 4 and 5 package agencies shall be on a non-consignment inventory status where the package agency owns the inventory.

R82-2-304. Application for a Package Agency.

(1) This rule is made pursuant to ~~[s]~~Section 32B-2-202, which authorizes the Commission to make rules governing package agencies and the process to issue a new package agency.

(2) No application for a package agency will be included on the agenda of a monthly Commission meeting for consideration for issuance of a package agency contract until:

(a) the applicant has first met all requirements of ~~[sections]~~Sections 32B-1-304 through 32B-1-307 and the requirements of ~~[sections]~~Sections 32B-2-602 and 32B-2-604 have been met; and

(b) the Department has inspected the package agency premise.

(3)(a) All application requirements of subpart (1)(a) of this rule must be filed with the Department no later than the 10th day of the month in order for the application to be included on that month's Commission meeting agenda.

(b) An incomplete application will be returned to the applicant.

(c) A completed application filed after the 10th day of the month will not be considered by the Commission that month, but will be included on the agenda of the Commission meeting the following month.

R82-2-305. Evaluation Guidelines of Package Agencies.

(1) This rule is made pursuant to ~~[s]~~Section 32B-2-202, which authorizes the Commission to make rules governing package agencies and the process to issue a new package agency.

(2) The Commission, after considering information from the applicant for the package agency and from the Department, shall determine whether the package agency shall be classified and operated as a Type 1, 2, 3, 4, or 5 package agency.~~[.]~~

(3) After a package agency has been classified and issued, a package agent or the Department may request that the Commission approve a change in the classification of the package agency. Information shall be forwarded to aid in its determination. If the Commission determines that the package agency should be reclassified, it shall approve the request.

(4) Type 2 and 3 package agencies shall:

- (a) serve a population of at least 6,000 people comprised of both permanent residents and tourists; and
- (b) not be established or maintained within a one-mile radius of another type 2 or 3 package agency unless it can be clearly demonstrated that it is in the best interest of the state to establish and maintain the outlet at that location.
- (5)(a) The Department shall report to the Commission on package agency operations as a regular agenda item at each monthly Commission meeting.
- (b) Any significant issues with respect to the operations of a particular package agency shall also be reported to the Commission.
- (c) Recommended closure by the Department of a package agency due to payment delinquencies over 30 working days, significant inventory shortages, or any other significant operational deficiencies shall be calendared for the Commission's consideration at its next regular monthly meeting or at a special meeting.

R82-2-306. Operational Matters.

- (1) This rule is made pursuant to Section 32B-2-202, which authorizes the Commission to make rules governing package agencies.
- (2) Hours of Operation.
 - (a) Type 1 and 2 package agencies may operate from 10 a.m. until midnight, Monday through Saturday. However, the actual operating hours may be less in the discretion of the package agent with the approval of the Department. Type 2 agencies shall be open for business at least seven hours a day, five days a week, except where closure is otherwise required by law.
 - (b) Type 3 package agencies may operate from 10 a.m. until 10 p.m., Monday through Saturday, but may remain closed on Mondays at the discretion of the package agent. However, the actual operating hours may be less in the discretion of the package agent with the approval of the Department, provided the package agency operates at least seven hours a day.
 - (c) Type 4 package agencies may operate from 10 a.m. until 1 a.m., Monday through Friday, and 10 a.m. until midnight on Saturday. However, the actual operating hours may be less at the discretion of the package agent with the approval of the Department. A Type 4 package agency in a resort that is licensed under Title 32B, Chapter 8, Resort License Act may operate 24 hours a day, Monday through Sunday to provide room service to the room of a guest of the resort.
 - (d) Type 5 package agencies may operate from 10 a.m. until midnight, Monday through Sunday. However, the actual operating hours may be less in the discretion of the package agent with the approval of the Department. Type 5 package agencies may, at the discretion of the package agent, be open as early as 8 a.m. for sales to licensees with the approval of the Department. Type 5 package agencies may also be open on Sundays and state and federal holidays if the package agency is located at a manufacturing facility licensed by the Commission and only sells alcoholic products produced at the manufacturing facility.
 - (e) Any change in the hours of operation of any package agency requires prior Department approval and shall be submitted in writing by the package agent to the Department.
 - (f)(i) A package agency shall not operate on a Sunday or legal holiday except to the extent authorized by Section 32B-2-605, which allows the following to operate on a Sunday or legal holiday:
 - (A) a package agency located in certain licensed wineries, breweries, and distilleries; and
 - (B) a package agency held by a resort that is licensed under Title 32B, Chapter 8, Resort License Act that does not sell liquor in a manner similar to a state store which is limited to a Type 4 package agency.
 - (ii) If a legal holiday falls on a Sunday, the following Monday will be observed as the holiday by a Type 2 and 3 package agency.
 - (3) Size of Outlet. The retail selling space devoted to liquor sales in a Type 2 or 3 package agency must be at least one hundred square feet.
 - (4) Inventory Size. Type 2 and 3 package agencies must maintain at least 50 code numbers of inventory at a retail value of at least ~~\$5,000~~ five thousand dollars and must maintain a representative inventory by brand, code, and size.
 - (5) Access to General Public. Type 1, 2, and 3 package agencies must be easily accessible to the general consuming public.
 - (6) Purchase of Inventory. Any new package agencies, at the discretion of the Department, will purchase and maintain their inventory of liquor.
 - (7) Record keeping. Records required by the Department shall be kept current and available to the Department for auditing purposes for at least three years.

R82-2-307. Type 5 Package Agencies.

- (1) Authority. This rule is made pursuant to:
 - (a) Section 32B-2-202, which authorizes the Commission to make rules governing package agencies; and
 - (b) Sections 32B-2-504, 32B-2-605, and 32B-5-303.
- (2) Purpose. A Type 5 package agency is for the limited purpose of allowing a winery, distillery, or brewery to sell at its manufacturing location the packaged liquor product it ~~actually~~ produces to the general public for off-premise consumption. This rule establishes guidelines and procedures for Type 5 package agencies.
- (3) Application.
 - (a) The package agency must be located at a manufacturing facility that has been granted a manufacturing license by the Commission. For purpose of this rule, a manufacturing facility includes the parcel of land and, where applicable, any building leased or owned by the manufacturing licensee immediately surrounding the manufacturing premise.
 - (b) The package agency may only sell products produced by the manufacturing licensee and may not carry the products of other alcoholic beverage manufacturers. For ~~the purpose of~~ this rule, products produced by the manufacturing licensee include products that would be assessed tax for sale as determined by 27 C.F.R. Parts 19, 24 and 25.
 - (c)(i) The product produced by the manufacturing licensee and sold in the Type 5 package agency need not be shipped from the winery, distillery, or brewery to the Department and then back to the package agency.

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(ii) The bottles for sale at a Type 5 package agency may be moved directly from the manufacturer's storage area to the package agency, provided that proper record[-]keeping is maintained in a form and manner as required by the Department.

(d) Records required by the Department shall be kept current and available to the Department for auditing purposes for at least three years.

(e) The package agency shall submit to the Department a completed monthly sales report which specifies the variety and number of bottles sold from the package agency in a form and manner as required in the package agency contract.

(f) Direct deliveries to licensees are prohibited. Products must be purchased and picked up by the licensees or their staff at the Type 5 package agency. Sales to the manufacturer's retail licenses may be transported from the manufacturer's storage area directly to the retail licensed premise provided that a record is maintained showing a sale from the Type 5 package agency to the retail licensee at the retail price.

(g) The Type 5 package agency shall sell products at a price fixed by the Commission and follow the same laws, rules, policies, and procedures applicable to other package agencies as to the retail price of products.

(h) The days and hours of sale of the Type 5 package agency shall be in accordance with Sections 32B-2-605 and [-]R82-2-306.

R82-2-308. Consignment Inventory Package Agencies.

(1) Authority. This rule is made pursuant to Sections 32B-2-202 and 32B-2-605, which authorize the Commission to make rules governing package agencies.

(2) Purpose. This rule provides the procedures for consignment sales of liquor to a type 2 or type 3 package agency at the discretion of the Department.

(3) Application.

(a) Consignment Inventory.

(i) The Department shall:

(A) establish the initial amount of consignment inventory furnished to a package agency;

(B) post the package agency's consignment inventory amount to the Department's accounting system as "Consignment Inventory Account";

(C) make any adjustment to the consignment inventory amount through a transfer, shipment, or payment of money; and

(D) include a copy of the transfer or adjusting shipment or evidence of payment in the package agency's file.

(ii)(A) The Department may adjust a package agency's consignment inventory amount from time to time based on the package agency's monthly average sales.

(B) In the event the package agency's 12-month average sales are lower than the package agency's current consignment amount, the Department may lower the consignment amount.

(C) If the consignment amount is reduced, the package agency must pay for the difference through cash payment or returned inventory to the Department.

(iii)(A) The package agency's contract with the Department shall state the package agency's consignment inventory amount.

(B) Any adjustment to the package agency's consignment inventory amount shall be made through a contract amendment or a new contract.

(b) Payments.

(i) A package agency that receives shipments or transfers of liquor shall have an Automated Clearing House (ACH) payment system set up with the Department.

(ii) The Department shall email a package agency a statement that shows the package agency's unpaid debts and applied credits before the end of each week.

(iii) The weekly statement will reflect:

(A) 30 days from the order date to pay for ordered liquor inventory;

(B) payments received against the oldest outstanding invoices first; and

(C) payments received over previous statement balances credited chronologically against ordered liquor inventory due after previous statements.

(iv) The package agent is responsible for reviewing the statement and contacting the Department with any discrepancies before the payment due date.

(v)(A) A package agent may, in advance of the Department drawing payments via Automated Clearing House (ACH), remit payment for the statement total to the Department on balances due from outstanding invoices that have not received enough credit card payments or other payments to cover those outstanding balances.

(B) If no other payment has been received by the due date, payment will be automatically drawn through the Automated Clearing House (ACH) process on the due date unless prior arrangements have been made between the package agent and the Department.

(vi)(A) The Department shall consider insufficient funds, returned checks, and unpaid balances from a previous statement past due.

(B) The Department may assess the legal rate of interest on the amount owed by a package agency and the package agency may be referred to the Commission for possible termination of the package agency contract and closure.

(vii)(A) The Department and the package agency shall resolve any delivery discrepancies using the LQ9 form or another form provided by the Department.

(B) The Department shall issue a debit or credit after proper completion and submission of the LQ9 or other form to the Department.

(C) The Package agency shall pay in accordance with the package agency's statement by the due date regardless of whether any discrepancies have been resolved.

(c) Transfers.

(i) The Department shall adjust transfers, up or down, to the package agency's payment due the Department.

- (ii) Transfers to the package agency will add to the amount owed to the Department.
- (iii) Transfers out will subtract from the amount owed to the Department on the next check due to the Department.
- (d) Credit and Debit Card Credits.
- (i) Credit for credit and debit cards processed at the package agency will be posted to the package agency's statement.
- (ii) The package agent is responsible for sending the package agency's settlement report and individual receipts to the Department to receive credit.
- (e) Audits.
- (i) The Department shall audit the package agency at least once each fiscal year, but may conduct additional audits if deemed necessary.
- (ii) The package agency is subject to a Department audit at any time.

R82-2-309. Type 4 Package Agency Room Service -- 187 ml Wine Sales.

- (1) Authority. This rule is made pursuant to the Commission's powers and duties under Section 32B-2-202 to adopt and issue policies, rules, and procedures.
- (2) Purpose.
- (a) Pursuant to Section 32B-2-303, the Department may not purchase or stock spirituous liquor in containers smaller than 200 milliliters, except as described in Section 32B-2-303.
- (b) Subject to subpart (2)(a) and the conditions described in subpart (3), the Commission allows the limited use of 187 milliliter bottles of wine as one form of room service sales by Type 4 package agencies located in hotels and resorts.
- (c) The conditions outlined in this section are imposed to ensure that the smaller bottle sales are limited to patrons of sleeping rooms and are not offered to the general public.
- (2) Application.
- (a) The Department will not maintain a regular inventory of wine in the smaller bottle sizes, but will accept special orders for these products from a Type 4 package agency. Special orders may be placed with the Department's purchasing division, any state store, or any Type 2 or 3 package agency.
- (b) The Type 4 package agency must order in full case lots and all sales are final.
- (c) If the hotel or resort has a Type 1 package agency with Type 4 privileges, the smaller bottle sized products must be stored in a secure area separate from the Type 1 package agency inventory.
- (d) Sale and use of wine in the smaller bottle sizes is restricted to providing one form of room service to guests in sleeping rooms in the hotel or resort, and may not be used for other purposes, or be sold to the general public.
- (e) Failure of the Type 4 package agency to strictly adhere to the provisions of this rule is grounds for the Department to terminate its contract with the Type 4 package agency.

R82-2-310. Type 4 Package Agency Room Service - Dispensing.

- (1) This rule is made pursuant to [s]Section 32B-2-202, which authorizes the Commission to make rules governing package agencies.
- (2) A Type 4 package agency that sells liquor other than in a sealed container, i.e. by the drink, as part of room service, shall dispense liquor in accordance with [section-]Section 32B-5-304 and R82-5-104, Liquor Dispensing Systems.
- (3) A Type 4 package agency located in a hotel or resort facility that has a retail license or sublicense may provide room service of liquor in other than a sealed container through the dispensing outlet of the retail license or sublicense under the following conditions:
 - (a) point of sale control systems must be implemented that will record the amounts of alcoholic beverage products sold by the retail license or sublicense on behalf of the Type 4 package agency;
 - (b) the alcoholic beverage product cost must be allocated to the Type 4 package agency on at least a quarterly basis pursuant to the record keeping requirements of [s]Section 32B-5-302;
 - (c) dispensing of alcoholic beverages from a retail license or sublicense location may not be made at prohibited hours pertinent to that license or sublicense type; and
 - (d) a Type 4 package agency held by a resort or hotel licensee that operates seven days a week, 24 hours per day, must have a separate dispensing outlet for use during the times that a sublicense is not allowed to sell liquor.

KEY: alcoholic beverages

Date of Last Change: 2025|November 22, 2024|

Notice of Continuation: February 5, 2025

Authorizing, and Implemented or Interpreted Law: 32B-1-102; 32B-2-202; 32B-1-301 through 32B-1-307; 32B-2-504; 32B-2-605; 32B-5-303

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:

R82-3

Filing ID: 57136

Agency Information

Agency Information		
1. Title catchline:	Alcoholic Beverage Services, Administration	
Street address:	1625 S 900 W	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 30408	
City, state and zip:	Salt Lake City, UT 84130-0408	
Contact persons:		
Name:	Phone:	Email:
Brian Swan	801-977-6801	bswan@utah.gov
Vickie Ashby	801-977-6801	vickieashby@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R82-3. Disciplinary Actions and Enforcement
3. Purpose of the new rule or reason for the change:
This rule change makes technical corrections; gives the Department of Alcoholic Beverage Services (Department) broader discretion in how to prosecute violations; removes statutory redundancies; and removes a provision that exceeds the statute's prescription.
4. Summary of the new rule or change:
<p>This rule:</p> <p>1) makes technical grammar corrections and clarifies that penalties can be combined rather than exclusive;</p> <p>2) allows the Department to take action on multiple violations that occur in the same investigation; and</p> <p>3) removes provisions that are either duplicative of what is already in statute, or that exceed what statute outlines.</p>

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
<p>This rule is not expected to have a fiscal impact on the state budget because these changes are technical in nature.</p> <p>Additionally, allowing the Department discretion in how to adjudicate multiple violations has no impact since the Department is already adjudicating any related violations.</p>
B) Local governments:
These rule changes do not affect local governments and therefore have no fiscal impact.
C) Small businesses ("small business" means a business employing 1-49 persons):
These rule changes do not affect the operations of small businesses and therefore have no fiscal impact.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
These rule changes do not affect the operations of non-small businesses and therefore have no fiscal impact.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):
These rule changes do not affect other persons and therefore have no fiscal impact.

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

These rule changes do not affect compliance costs and therefore have no fiscal impact.

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

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

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

The Executive Director of the Department of Alcoholic Beverage Services, Tiffany Clason, 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 32B-2-202		
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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:	06/17/2025
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9. This rule change MAY become effective on:	06/24/2025
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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:	Tiffany Clason, Executive Director	Date:	04/28/2025
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R82. Alcoholic Beverage Services, Administration.**R82-3. Disciplinary Actions and Enforcement.****R82-3-101. Definitions.**

As used in this part:

(1) "Decision Officer" means a person who has been appointed by the Commission or the director of the Department of Alcoholic Beverage Services to preside over the prehearing phase of all disciplinary actions, and, in all cases not requiring an evidentiary hearing.

(2) "Disciplinary Action" means the process by which violations of the Act and ~~these rules are~~ this rule is charged and adjudicated, and by which administrative penalties are imposed.

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(3) "Hearing Officer" means a person who has been appointed by the Commission or the director to preside over evidentiary hearings in disciplinary actions, and who is authorized to issue written findings of fact, conclusions of law, and recommendations to the Commission for final action.

(4) "Letter of Admonishment" is a written warning issued by a decision officer to a respondent who is alleged to have violated the Act or ~~these rules~~ this rule.

(5) "Respondent" means a Department licensee, or permittee, or employee or agent of a licensee or permittee, or other entity against whom a letter of admonishment or notice of agency action is directed.

(6) "Violation Report" means a written report from any law enforcement agency or authorized Department staff member alleging a violation of the Alcoholic Beverage Control Act or rules of the Commission by a Department licensee, or permittee, or employee or agent of a licensee or permittee or other entity.

R82-3-102. Violation Schedule.

(1) Authority. This rule is made pursuant to Sections 32B-2-202 and 32B-3-101 through 32B-3-207, which authorize the Commission to establish criteria and procedures for imposing sanctions against a licensee, permittee, or an officer, employee, or agent of a licensee or permittee who violates statutes and Commission rules relating to alcoholic beverages.

(2) Purpose.

(a) This rule establishes a schedule setting forth a range of penalties that may be imposed by the Commission for violations of Utah alcoholic beverage control laws.

(b) A Department decision officer shall use this rule in processing a violation.

(c) A hearing officer shall use this rule in:

(i) charging a violation;

(ii) assisting parties in settlement negotiations; and

(iii) recommending a penalty for a violation.

(d) The Commission shall use the schedule in this rule in rendering the Commission's final decisions as to the appropriate penalty for a violation.

(e) This rule does not apply to a licensee or permittee that fails to maintain the fundamental, minimum qualifications provided by law for holding a license or permit as described in Section R82-3-104.

(3) Definitions. As used in this rule:

(a) "Licensee" includes a holder of a certificate of approval.

(b) "Permit" does not include a single event permit issued under Title 32B, Chapter 9, Event Permit Act.

(4) Application.

(a) The Commission may:

(i) revoke or suspend a license or permit;

(ii) impose a fine against a licensee or permittee in addition to or in lieu of a suspension; ~~or~~ and

(iii) impose a fine against an officer, employee, or agent of a licensee or permittee.

(b)(i) If a licensee or permittee has not received a letter of admonishment or been found by the Commission to be in violation of the Act or Commission rules for a period of 36 consecutive months, the licensee's or permittee's violation record shall be expunged for purposes of determining future penalties sought.

(ii) The expungement period shall run from the date the last offense was finally adjudicated by the Commission.

(c) In addition to the penalty classifications in this rule, the Commission may:

(i) upon revocation of a license or permit, take action to forfeit the bond of a licensee or permittee;

(ii) prohibit an officer, employee, or agent of a licensee or permittee from serving, selling, distributing, manufacturing, wholesaling, warehousing, or handling alcoholic beverages in the course of employment with any Commission licensee or permittee for a period determined by the Commission;

(iii) order the removal of a manufacturer's, supplier's or importer's products from the Department's sales list and a suspension of the Department's purchase of those products for a period determined by the Commission if the manufacturer, supplier, or importer directly committed the violation, or solicited, requested, commanded, encouraged, or intentionally aided another to engage in the violation; ~~or~~ and

(iv) require a licensee to have a written responsible ~~[a]~~ Alcohol ~~[s]~~ Service ~~[p]~~ Plan as provided in Section R82-3-107.

(d)(i) When the Commission imposes a fine or administrative costs, the Commission shall establish a date on which the payment is due.

(ii) Failure of a licensee, permittee, or an officer, employee, or agent of a licensee or permittee to pay on or before the date established by the Commission results in the immediate suspension of the license or permit or the suspension of the employment of the officer, employee, or agent to serve, sell, distribute, manufacture, wholesale, warehouse or handle alcoholic beverages with any licensee or permittee until payment is made.

(iii) Failure of a licensee or permittee to pay a fine or administrative costs within 30-days after the date established by the Commission results in the issuance of an order to show cause to be heard at the Commission's next regularly scheduled meeting as to why the license or permit should not be revoked and the licensee's or permittee's compliance bond forfeited.

(5) Penalty Schedule. The Department and Commission shall follow these penalty range guidelines:

(a) Minor Violations. Violations of this category are lesser in nature and relate to basic compliance with the laws and rules. If not corrected, they are sufficient cause for action. Penalty range: Verbal warning from law enforcement or Department compliance officer to revocation of the license or permit or up to a \$25,000 fine or both. A record of any letter of admonishment shall be included in the licensee's or permittee's and the officer's, employee's, or agent's violation file at the Department to establish a violation history.

(i) First occurrence involving a minor violation: The penalty shall range from a verbal warning from law enforcement or Department compliance officer, which is documented to a letter of admonishment to the licensee or permittee and the officer, employee, or agent involved. Law enforcement or Department compliance officer shall notify management of the licensee or permittee when verbal warnings are given.

(ii) Second occurrence of the same type of minor violation: A written investigation report from a law enforcement or Department compliance officer shall be forwarded to the Department. The penalty shall range from a \$100 to \$500 fine for the licensee or permittee, and a letter of admonishment to a \$25 fine for the officer, employee, or agent.

(iii) Third occurrence of the same type of minor violation: A one to five-day suspension of the license or permit and employment of the officer, employee, or agent; or a \$200 to \$500 fine for the licensee or permittee and up to a \$50 fine for the officer, employee, or agent; or both.

(iv) More than three occurrences of the same type of minor violation: A six-day suspension to revocation of the license or permit and a six to ten-day suspension of the employment of the officer, employee, or agent, or a \$500 to \$25,000 fine for the licensee or permittee and up to a \$75 fine for the officer, employee, or agent, or both a suspension to revocation and fine.

(v) If more than one violation is charged during the same investigation, the penalty shall be the sum of the days of suspension or the monetary penalties for each of the charges in their respective categories, or both.

(vi) If other minor violations are discovered during the same investigation, a verbal warning shall be given for each violation on a first occurrence.

(vii) If the same type of violation is reported more than once during the same investigation, the ~~violations shall be charged as a single occurrence.~~ Department may:

(A) charge each violation separately under a single agency action; or

(B) charge each violation as a single occurrence.

(b) Moderate Violations. Violations of this category demonstrate a general disregard for the laws or rules. ~~[Although the acts are not viewed in the same light as in the serious and grave categories, they are still sufficient cause for action.]~~ Penalty range: Written investigation report from law enforcement or Department compliance officer shall be forwarded to the Department on the first occurrence. The penalty shall range from a letter of admonishment to revocation of the license or permit or up to a \$25,000 fine and a combination of penalties.

(i) First occurrence involving a moderate violation: A written investigation report from law enforcement or Department compliance officer shall be forwarded to the Department. The penalty shall range from a letter of admonishment to a \$1,000 fine for the licensee or permittee, and a letter of admonishment to a \$50 fine for the officer, employee, or agent.

(ii) Second occurrence of the same type of moderate violation: A three to ten-day suspension of the license or permit and a three to ten-day suspension of the employment of the officer, employee, or agent; or a \$500 to \$1,000 fine for the licensee or permittee and up to a \$75 fine for the officer, employee, or agent; or both.

(iii) Third occurrence of the same type of moderate violation: A 10 to 20-day suspension of the license or permit and a 10 to 20-day suspension of the employment of the officer, employee, or agent; or a \$1,000 to \$2,000 fine for the licensee or permittee and up to a \$100 fine for the officer, employee, or agent; or both.

(iv) More than three occurrences of the same type of moderate violation: A 15-day suspension to revocation of the license or permit and a 15 to 30-day suspension of the employment of the officer, employee, or agent; or a \$2,000 to \$25,000 fine for the licensee or permittee and up to a \$150 fine for the officer, employee, or agent; or both.

(v) If more than one violation is charged during the same investigation, the penalty shall be the sum of the days of suspension or the sum of the monetary penalties for each of the charges in their respective categories or both.

(vi) If the same type of violation is reported more than once during the same investigation, the ~~violations shall be charged as a single occurrence.~~ Department may:

(A) charge each violation separately under a single agency action; or

(B) charge each violation as a single occurrence.

(c) Serious Violations. Violations of this category directly or indirectly affect or potentially affect the public safety, health, and welfare, or may involve minors. Penalty range: Written investigation report from law enforcement or Department compliance officer shall be forwarded to the Department on the first occurrence. The penalty shall range from a five-day suspension to revocation of the license or permit or up to a \$25,000 fine or both.

(i) First occurrence involving a serious violation: A written investigation report from law enforcement or Department compliance officer shall be forwarded to the Department. The penalty shall range from a five to 30-day suspension of the license or permit and a five to 30-day suspension of the employment of the officer, employee, or agent; or a \$500 to \$3,000 fine for the licensee or permittee and up to a \$300 fine for the officer, employee, or agent; or both.

(ii) Second occurrence of the same type of serious violation: A 10 to 90-day suspension of the license or permit and a 10 to 90-day suspension of the employment of the officer, employee, or agent; or a \$1,000 to \$9,000 fine for the licensee or permittee and up to a \$350 fine for the officer, employee, or agent; or both.

(iii) More than two occurrences of the same type of serious violation: A 15-day suspension to revocation of the license or permit and a 15 to 120-day suspension of the employment of the officer, employee, or agent; or a \$9,000 to \$25,000 fine for the licensee or permittee and up to a \$700 fine for the officer, employee, or agent; or both.

(iv) If more than one violation is charged during the same investigation, the penalty shall be the sum of the days of suspension, or the sum of the monetary penalties for each of the charges in their respective categories, or both.

(v) If the same type of violation is reported more than once during the same investigation, ~~the violations shall be charged as a single occurrence.~~ the Department may:

(A) charge each violation separately under a single agency action; or

(B) charge each violation as a single occurrence.

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(d) Grave Violations. Violations of this category pose or potentially pose, a grave risk to public safety, health and welfare, or may involve lewd acts prohibited by the Act, fraud, deceit, willful concealment or misrepresentation of the facts, exclusion of competitors' products, unlawful tied house trade practices, commercial bribery, interfering or refusing to cooperate with authorized officials in the discharge of their duties, unlawful importations, or industry supplying liquor to persons other than the Department and military installations. Penalty range: Written investigation report from law enforcement or Department compliance officer shall be forwarded to the Department on the first occurrence. The penalty shall range from a ten-day suspension to revocation of the license or permit, or up to a \$25,000 fine, or both.

(i) First occurrence involving a grave violation: A written investigation report from law enforcement or Department compliance officer shall be forwarded to the Department. The penalty shall range from a ten-day suspension to revocation of the license or permit and a 10 to 120-day suspension of the employment of the officer, employee, or agent; or a \$1,000 to \$25,000 fine to the licensee or permittee and up to a \$300 fine for the officer, employee, or agent, or both.

(ii) More than one occurrence of the same type of grave violation: A 15-day suspension to revocation of the license or permit, and a 15 to 180-day suspension of the employment of the officer, employee or agent or a \$3,000 to \$25,000 fine for the licensee or permittee and up to a \$500 fine for the officer, employee, or agent, or both suspension and fine.

(iii) If more than one violation is charged during the same investigation, the penalty shall be the sum of the days of suspension or the sum of the monetary penalties for each of the charges in their respective categories or both.

(iv) If the same type of violation is reported more than once during the same investigation, ~~[the violations shall be charged as a single occurrence.]~~ the Department may:

(A) charge each violation separately under a single agency action; or

(B) charge each violation as a single occurrence.

(e) The following table summarizes the penalty ranges contained in this subsection of the rule for licensees and permittees.

TABLE 1				
Violation Degree And Frequency	Warning -- Verbal \ Or Written	Fine Amount	Suspension No. of Days	Revoke License
Minor				
1st	X \ X			
2nd		100 to 500		
3rd		200 to 500	1 to 5	
Over 3		500 to 25,000	6 to	X
Moderate				
1st	\ X	To 1,000		
2nd		500 to 1,000	3 to 10	
3rd		1,000 to 2,000	10 to 20	
Over 3		2,000 to 25,000	15 to	X
Serious				
1st		500 to 3,000	5 to 30	
2nd		1,000 to 9,000	10 to 90	
Over 2		9,000 to 25,000	15 to	X
Grave				
1st		1,000 to 25,000	10 to	X
Over 1		3,000 to 25,000	15 to	X

(f) The following table summarizes the penalty ranges contained in this subsection of the rule for officers, employees, or agents of licensees and permittees.

TABLE 2			
Violation Degree and Frequency	Warning -- Verbal \ Or Written	Fine Amount	Suspension No. of Days
Minor			
1st	X \ X		
2nd	\ X	To 25	
3rd		To 50	1 to 5
Over 3		To 75	6 to 10
Moderate			
1st	\ X	To 50	
2nd		To 75	3 to 10
3rd		To 100	10 to 20
Over 3		To 150	15 to 30
Serious			

1st		To 300	5 to 30
2nd		To 350	10 to 90
Over 2		To 700	15 to 180
Grave			
1st		To 300	10 to 120
Over 1		To 500	15 to 180

~~[(6) Aggravating and Mitigating Circumstances. The Commission and hearing officers may adjust penalties within penalty ranges based upon aggravating or mitigating circumstances.~~

~~(a) Mitigating circumstances include:~~

~~(i) no prior violation history;~~

~~(ii) good faith effort to prevent a violation;~~

~~(iii) existence of written policies governing employee conduct;~~

~~(iv) extraordinary cooperation in the violation investigation that shows the licensee or permittee and the officer, employee or agent of the licensee or permittee accepts responsibility; and~~

~~(v) no evidence that the investigation was based on complaints received or on observed misconduct of others, but was based solely on the investigating authority creating the opportunity for a violation.~~

~~(b) Aggravating circumstances include:~~

~~(i) prior warnings about compliance problems;~~

~~(ii) prior violation history;~~

~~(iii) lack of written policies governing employee conduct;~~

~~(iv) multiple violations during the investigation;~~

~~(v) efforts to conceal a violation;~~

~~(vi) intentional nature of the violation;~~

~~(vii) the violation involved more than one patron or employee;~~

~~(viii) the violation involved a minor and, if so, the age of the minor; and~~

~~(ix) whether the violation resulted in injury or death.~~

] ~~[(7)](6) Violation Schedule. Any proposed substantive change to the violation schedule established in this rule that would establish or adjust the degree of seriousness of a violation requires rulemaking in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~

R82-3-103. Disciplinary Hearings.

(1)(a) Authority.

(i) This rule is made pursuant to Section 32B-2-202 and governs the procedure for disciplinary actions under the jurisdiction of the Commission.

(ii) Package agencies are expressly excluded from the provisions of this rule[-] and are governed by the terms of the package agency contract.

(b) Definitions. The definitions found in Title 63G, Chapter 4, Utah Administrative Procedures Act, apply to this rule.

(c) Liberal Construction. This rule shall be liberally construed to secure just, speedy, and economical determination of all issues presented in any disciplinary action.

(d) Utah Administrative Procedures Act. A proceeding under this rule shall be in accordance with Title 63G, Chapter 4, Utah Administrative Procedures Act (UAPA), and Sections 32B-3-102 through 32B-3-207.

~~(e) Administrative costs.[Penalties.~~

~~(i) This rule governs the imposition of any penalty against a licensee, permittee, or certificate of approval holder, an officer, employee, or agent of a licensee, permittee, or certificate of approval holder, and a manufacturer, supplier, or importer whose products are listed in this state.~~

~~(ii) Penalties under this rule include:~~

~~(A) a letter of admonishment;~~

~~(B) imposition of a fine;~~

~~(C) the suspension or revocation of a license, permit, or certificate of approval;~~

~~(D) the requirement that a licensee have a responsible alcohol service plan as provided in Section R82-3-107;~~

~~(E) the assessment of costs of action;~~

~~(F) an order prohibiting an officer, employee, or agent of a licensee, permittee, or certificate of approval holder, from serving, selling, distributing, manufacturing, wholesaling, warehousing, or handling alcoholic beverages in the course of employment with any licensee, permittee, or certificate of approval holder for a period determined by the Commission;~~

~~(G) the forfeiture of a bond;~~

~~(H) an order removing a manufacturer's, supplier's, or importer's products from the Department's sales list and a suspension of the Department's purchase of those products for a period determined by the Commission; and~~

~~(I) an order removing the products of a certificate of approval holder from the state approved sales list, and a suspension of the purchase of the products in the state.]~~

~~[(iii)](i) Department administrative costs for a proceeding under this rule include:~~

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(A) the hourly pay rate plus benefits of each Department employee involved in processing and conducting the adjudicative proceedings on the violation;

(B) an hourly charge for Department overhead costs;

(C) the amount billed to the Department by an independent contractor for services provided in conjunction with an adjudicative proceeding; and

(D) any additional extraordinary or incidental costs incurred by the Department.

~~(iv)~~(ii) The Commission may assess administrative costs in addition to the costs described in Subsection (1)(e)~~(iii)~~(i) if a respondent fails to appear before the Commission at the final stage of the adjudicative process.

(v)(A) The Department shall calculate overhead costs described in Subsection (1)(e)~~(iii)~~(i) by taking the previous year's total Department expenditures less staff payroll charges expended on violations, dividing it by the previous year's total staff hours spent on violations, and multiplying this by a rate derived by taking the previous year's total staff payroll spent on violations to the previous year's total payroll of all office employees.

(B) The Department shall recalculate the overhead costs at the beginning of each fiscal year.

(f) Witnesses.

(i) A hearing officer, in the course of conducting a hearing, may swear in a witness.

(ii) A person who makes any false or perjured statement in the course of a disciplinary action is subject to criminal prosecution under Section 32B-4-504.

(g) Service.

(i) Service of any document under this rule is satisfied by:

(A) service personally or by mail upon the respondent, upon an officer or manager of a corporate or limited liability company respondent, upon an attorney for the respondent, to the last known address of the respondent; or

(B) upon any employee working in the respondent's premises; or

(C) posting of the document or a notice of certified mail upon the respondent's premises.

(ii) Proof of service under this rule is satisfied by:

(A) a receipt of service signed by the person served;

(B) a certificate of service signed by the person served;

(C) certificate of service signed by the server; or

(D) verification of posting on the respondent's premises.

(h) Filing of pleadings or documents. A respondent's filing of any pleading or document under this rule is satisfied by time delivery to:

(i) the Department office located at 1625 S. 900 West, Salt Lake City, Utah; or

(ii) P. O. Box 30408, Salt Lake City, Utah 84130-0408.

(i) Representation.

(i) A respondent who is not a corporation or limited liability company may:

(A) represent the respondent's self in any disciplinary action;

(B) be represented by an agent authorized by the respondent in writing; or

(C) be represented by an attorney.

(ii) A corporate or limited liability company respondent may be represented by:

(A) a member of the governing board of the corporation or manager of the limited liability company;

(B) a person authorized and appointed by the respondent in writing to represent the governing board of the corporation or manager of the limited liability company; or

(C) an attorney.

(j) Hearing officers.

(i) The Commission or the director may appoint a hearing officer to:

(A) receive evidence in a disciplinary proceeding; and

(B) submit to the Commission orders containing written findings of fact, conclusions of law, and recommendations for Commission action.

(ii) If fairness to the respondent is not compromised, the Commission or director may substitute one hearing officer for another during any proceeding.

(iii) A person who acts as a hearing officer at one phase of a proceeding need not continue as hearing officer through all phases of a proceeding.

(iv) Nothing in this rule precludes the Commission from acting as hearing officer over all or any portion of an adjudication proceeding.

(v) At any time during an adjudicative proceeding the hearing officer may hold a conference with the Department and the respondent to:

(A) encourage settlement;

(B) clarify issues;

(C) simplify the evidence;

(D) expedite the proceedings; or

(E) facilitate discovery, if a formal proceeding.

(k) Computation of time. In accordance with Section 68-3-7, the time within which any act shall be done under this rule is computed by excluding the first day and including the last day, unless the last day is a Saturday, Sunday, or state or federal holiday, in which case the next business day shall count as the last day.

(l) Default.

(i) The hearing officer may enter an order of default against a respondent if the respondent in an adjudicative proceeding fails to attend or participate in the proceeding.

(ii) The hearing officer shall:

(A) include a statement of the grounds for default in the order for default; and

(B) mail the order of default to the respondent and the Department.

(iii) A defaulted respondent may seek to have the order of default set aside according to procedures outlined in the Utah Rules of Civil Procedure.

(iv) After issuing the order of default, the Commission or hearing officer shall:

(A) conduct any further proceedings necessary to complete the adjudicative proceeding without the participation of the respondent in default; and

(B) determine all issues in the adjudicative proceeding, including those affecting the defaulting respondent.

(2) Pre-adjudication proceedings.

(a) Staff screening. Upon receipt of a violation report, a decision officer of the Department shall:

(i) review the report;

(ii) review the alleged violator's violation history; and

(iii) in accordance with Section R82-3-102, determine the range of penalties that may be assessed should the alleged violator be found guilty of the alleged violation.

(b) Letters of admonishment. A letter of admonishment is not a "state agency actions" as described in Section 63G-4-102 and is subject to the following procedures:

(i) A letter of admonishment may be sent to the respondent if the decision officer of the Department determines that the alleged violation does not warrant:

(A) an administrative fine;

(B) suspension or revocation of the license, permit, or certificate of approval; or

(C) action against an officer, employee, or agent of a licensee, permittee, or certificate of approval holder, or a manufacturer, supplier, or importer of products listed in this state.

(ii) A letter of admonishment shall set forth in clear and concise terms:

(A) the case number assigned to the action;

(B) the name of the respondent;

(C) the alleged violation, together with sufficient facts to put the respondent on notice of the alleged violations and the name of the law enforcement agency or staff member making the report;

(D) notice that a letter of admonishment may be considered as a part of the respondent's violation history in assessing appropriate penalties in future disciplinary actions against the respondent;

(E) notice that a rebuttal is permitted under this rule within 10 days after the letter of admonishment is served; and

(F) notice that the letter of admonishment is subject to the approval of the Commission.

(iii)(A) A copy of the law enforcement agency or Department staff report shall accompany the letter of admonishment.

(B) The decision officer shall delete from the report any information that might compromise the identity of a confidential informant or undercover agent.

(iv)(A) A respondent may file a written rebuttal with the Department within 10 days after the letter of admonishment is served.

(B) The rebuttal shall set forth in clear and concise terms:

(I) the case number assigned to the action;

(II) the name of the respondent;

(III) any facts in defense or mitigation of the alleged violation; and

(IV) a brief summary of any attached evidence.

(C) The rebuttal may be accompanied by supporting documents, exhibits, or signed statements.

(D) The respondent or the respondent's authorized agent or attorney shall sign the rebuttal.

(v)(A) If the decision officer is satisfied, upon receipt of a rebuttal, that the letter of admonishment was not well taken, the decision officer may withdraw the letter of admonishment;

(B) If the decision officer withdraws the letter of admonishment, the letter of admonishment and rebuttal shall be expunged from the respondent's file and the letter of admonishment may not be considered as a part of the respondent's violation history in assessing appropriate penalties in future disciplinary actions against the respondent.

(C) If no rebuttal is received, or if the decision officer determines after receiving a rebuttal that the letter of admonishment is justified, the decision officer shall submit the matter to the Commission for final approval.

(D) Upon Commission approval, the Department shall place the letter of admonishment, together with any written rebuttal, in the respondent's file.

(E) A letter of admonishment may be considered as part of the respondent's violation history in assessing appropriate penalties in future disciplinary actions against the respondent.

(F) If the Commission rejects the letter of admonishment, the Commission may direct the decision officer to dismiss the matter or direct that an adjudicative proceeding be commenced seeking a more severe penalty.

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(vi) At any time before the Commission's final approval of a letter of admonishment, the respondent may request that the matter be processed under the adjudicative proceeding process.

(c) Commencement of adjudicative proceedings.

(i) An alleged violation shall be referred to a hearing officer for commencement of adjudicative proceedings under the following circumstances:

(A) the decision officer determines during screening that the case does not fit the criteria for issuance of a letter of admonishment under this rule;

(B) a respondent has requested that a letter of admonishment be processed under the adjudicative proceeding process; or

(C) the Commission has rejected a letter of admonishment and directed that an adjudicative proceeding be commenced seeking a more severe penalty.

(ii) An adjudicative proceeding shall commence as an informal proceeding.

(iii) At any time after commencement of an informal adjudicative proceeding, but before the hearing, if the Department determines that the Department will seek administrative fines exceeding \$3,000, a suspension of the license, permit or certificate of approval for more than 10 days, or a revocation of the license, permit, or certificate of approval for the alleged violation, the hearing officer shall convert the matter to a formal adjudicative proceeding.

(iv) At any time before a final order is issued, the hearing officer may convert an informal proceeding to a formal proceeding if conversion is in the public interest and does not unfairly prejudice the rights of any party.

(3) The informal process.

(a) Notice of agency action.

(i) Upon referral of a violation report from the decision officer for commencement of an informal adjudicative proceeding, the hearing officer shall issue and sign a written notice of agency action that sets forth in clear and concise terms:

(A) the names and mailing addresses of all persons to whom notice is being given by the hearing officer;

(B) the name, title, and mailing address of an attorney or employee who has been designated to appear for the Department;

(C) the Department's case number;

(D) the name of the adjudicative proceeding, "Department of Alcoholic Beverage Services vs. (insert name of the respondent)";

(E) the date that the notice of agency action is mailed;

(F) a statement that the adjudicative proceeding is to be conducted informally according to this rule and Sections 63G-4-202 and 63G-4-203 unless a hearing officer converts the matter to a formal proceeding under this rule, in which event the proceeding will be conducted formally according to this rule and Sections 63G-4-204 through 63G-4-209;

(F) the date, time, and place of any prehearing conference with the hearing officer;

(G) a statement that a respondent may request a hearing to determine whether the violation alleged in the notice of agency action occurred, and if so, the penalty that should be imposed;

(H) a statement that a respondent who fails to attend or participate in any hearing may be held in default;

(I) a statement of the legal authority and jurisdiction under which the adjudicative proceeding is to be maintained;

(J) a statement of the purpose of the adjudicative proceeding and questions to be decided including:

(I) the alleged violation, together with sufficient facts to put the respondent on notice of the alleged violation and the name of the law enforcement agency or Department staff member making the violation report; and

(II) the penalty sought, which may include assessment of costs under Section 32B-3-205 if the respondent is found guilty of the alleged violation, and forfeiture of any compliance bond on final revocation, if revocation is sought by the Department;

(K) any violation history of the respondent that may be considered in assessing an appropriate penalty should the respondent be found guilty of the alleged violation; and

(L) the name, title, mailing address, and telephone number of the hearing officer.

(ii)(A) A copy of the law enforcement agency or staff report shall accompany the notice of agency action.

(B) The hearing officer shall delete from the report any information that might compromise the identity of a confidential informant or undercover agent.

(iii) The Department shall retain the notice of agency action and any subsequent pleading in the case in the respondent's file.

(iv) The Department shall:

(A) serve the notice of agency action on the respondent; and

(B) send the notice of agency action to any attorney representing the Department and any law enforcement agency that referred the alleged violation to the Department.

(v)(A) The hearing officer may permit or require pleadings in addition to the notice of agency action.

(B) A party shall file additional pleadings with the hearing officer and send copies by mail to each respondent and the Department.

(vi) Amendment to Pleading.

(A) The hearing officer may, upon motion of the respondent or the Department made at or before the hearing, allow any pleading to be amended or corrected.

(B) The hearing officer shall disregard a defect in a pleading that does not substantially prejudice the respondent or Department.

(vii) Signing of Pleading.

(A) The Department or respondent, or the Department's or respondent's authorized attorney or representative, shall sign a pleading.

(B) The pleading shall show the signer's address and telephone number.

(C) The signature is deemed to be a certification by the signer that the signer has read the pleading and taken reasonable measures to ensure its truth.

(b) The prehearing conference.

- (i) The hearing officer may hold a prehearing conference with the respondent and the Department to:
 - (A) encourage settlement;
 - (B) clarify issues;
 - (C) simplify the evidence; or
 - (D) expedite the proceedings.
- (ii)(A) All or part of an adjudicative proceeding may be stayed at any time by a written settlement agreement signed by the Department and respondent or the Department's or respondent's authorized attorney or representative, and the hearing officer.
- (B) The stay takes effect immediately upon the signing of the settlement agreement and remain in effect until the settlement agreement is approved or rejected by the Commission.
- (C) No further action is required with respect to any stayed action or issue until the Commission acts on the settlement agreement.
- (iii)(A) A settlement agreement approved by the Commission constitutes a final resolution of all issues agreed upon in the settlement.
- (B) After the Commission approves a settlement agreement, no further proceedings are required for any issue settled.
- (C) The approved settlement takes effect by its own terms and binds the respondent and the Department.
- (D) A breach of a settlement agreement by the respondent may be treated as a separate violation and is grounds for further disciplinary action.
- (E) Sanctions stipulated to in the settlement agreement may be imposed against the respondent.
- (iv) If the settlement agreement is rejected by the Commission, the action shall proceed in the same manner as if the settlement agreement had not been reached, except that all time limits are stayed for the period between the signing of the agreement and the Commission rejection of the settlement agreement.
- (v) If the matter cannot be resolved by settlement agreement, the Department shall notify the respondent and the hearing officer whether the Department will seek administrative fines exceeding \$3,000, a suspension of the license, permit, or certificate of approval for more than 10 days, or a revocation of the license, permit, or certificate of approval for the alleged violation.
- (vi) If the Department does not seek a remedy described in Subsection (2)(b)(v), any hearing on the matter shall be adjudicated informally.
- (vii)(A) If the Department seeks a remedy described in Subsection (2)(b)(v), the hearing officer shall convert the matter to a formal adjudicative proceeding, and any hearing on the matter shall be adjudicated formally.
- (B) In a matter that is converted to a formal adjudicative proceeding under Subsection (2)(b)(vii)(A), the Department may waive the requirement that the respondent file a written response to the notice of agency action.
- (c) The informal hearing.
 - (i)(A) Notice. The hearing officer shall notify the respondent and Department in writing of the date, time, and place of an informal hearing at least 10 days before the hearing.
 - (B) The respondent's failure to appear at the hearing after notice has been given is grounds for default and waives the respondent's right to contest the allegations and to the hearing.
 - (C) If the respondent fails to appear, the hearing officer shall prepare and serve on the respondent an order in accordance with this rule.
 - (ii) Hearing officer. An informal hearing is presided over by the hearing officer.
 - (iii) Rules of evidence.
 - (A) The respondent named in the notice of agency action and the Department are permitted to testify, present evidence, and comment on the issues at an informal hearing.
 - (B) Except as provided in Subsection (2)(c)(v), formal rules of evidence do not apply to an informal hearing.
 - (C) In an informal hearing, the hearing officer:
 - (I) may exclude evidence that is irrelevant, immaterial, or unduly repetitious;
 - (II) shall exclude evidence privileged in the courts of Utah;
 - (III) shall recognize presumptions and inferences recognized by law;
 - (IV) may receive documentary evidence in the form of a copy or excerpt if the copy or excerpt contains all the pertinent portions of the original document;
 - (V) may take official notice of any facts that could be judicially noticed under the Utah Rules of Evidence, the record of other proceedings before the Commission, and technical or scientific facts within the Commission's specialized knowledge;
 - (VI) may not exclude evidence solely because it is hearsay; and
 - (VII) may use the hearing officer's experience, technical competence, and specialized knowledge to evaluate the evidence.
 - (iv) Oath. All testimony at an informal hearing shall be under oath.
 - (v) Discovery and subpoenas.
 - (A) Discovery is prohibited at an informal hearing.
 - (B) The hearing officer shall issue subpoenas or orders to secure the attendance of witnesses or the production of evidence when requested by the respondent or Department, or upon the hearing officer's own motion.
 - (C) The respondent shall have access to information contained in the Department's files and to material gathered in the investigation of respondent to the extent permitted by law.
 - (vi) Intervention.
 - (A) Intervention is prohibited at an informal hearing.
 - (B) Except as provided in Subsections (2)(c)(vi)(C) and (D), the hearing is open to the public.
 - (C) The hearing officer may order the hearing closed upon a written finding that the public interest in an open meeting is clearly outweighed by factors enumerated in the closure order.

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- (D) The hearing officer may take appropriate measures necessary to preserve the integrity of the hearing.
- (vii) Record of hearing.
- (A) The hearing officer shall cause an official record of the hearing to be made, at the Department's expense, by an audio or video recorder or other recording device, by a certified shorthand reporter employed by the Department, or, if the Department chooses not to employ a reporter, by a party desiring to employ a certified shorthand reporter at the party's expense.
- (B) If a party employs a certified shorthand reporter, the original transcript of the hearing shall be filed with the Department and a person who desires a copy of the certified shorthand reporter's transcript may purchase the copy from the reporter.
- (C) A respondent, at respondent's expense, may have a person approved by the Department, prepare a transcript of the hearing, subject to any restrictions that the Department is permitted by statute to impose to protect confidential information disclosed at the hearing.
- (D) The Department shall make a transcript or audio or video recording of a hearing available at the Department for use by the parties, but the original transcript or recording may not be withdrawn.
- (E) The Department shall retain the record of the evidentiary hearing for a minimum of one year from the date of the hearing, or until the completion of any court proceeding on the matter.
- (viii) Order of presentation. Unless otherwise directed by the hearing officer at the informal hearing, the order of procedure and presentation of evidence is as follows:
 - (A) the Department;
 - (B) the respondent; and
 - (C) the rebuttal by the Department.
- (ix) Time limits. The hearing officer may set reasonable time limits for the presentations described in Subsection (2)(c)(viii).
- (x) Continuances of the informal hearing.
- (A) The hearing officer may grant continuances or recesses as necessary or upon the hearing officer's own motion when in the public interest.
- (B) If the hearing is continued to a time and date certain announced at the hearing, a new notification of the hearing is not required.
- (C) A continuance of a hearing is not favored, but the hearing officer may grant a continuance upon motion of the respondent or Department indicating good cause as to why a continuance is necessary.
- (xi) Oral argument and briefs. Upon the conclusion of the taking of evidence, the hearing officer may, in the hearing officer's discretion, permit the respondent and Department to make oral arguments or submit additional briefs or memoranda upon a schedule hearing officer designates.
- (d) Disposition.
- (i) Hearing officer's order.
- (A) Within a reasonable time after the close of the informal hearing, the hearing officer shall issue a signed order in writing that includes the following:
 - (I) the decision;
 - (II) the reasons for the decision;
 - (III) findings of facts;
 - (IV) conclusions of law;
 - (V) recommendations for final Commission action; and
 - (VI) notice that a respondent or the Department having objections to the hearing officer's order may file written objections with the hearing officer within 10 days after the order is served, setting forth the particulars in which the report is alleged to be unfair, inaccurate, incomplete, unreasonable, unlawful, or not supported by the evidence.
- (B) The hearing officer shall base the order on the facts appearing in the Department's files and presented in evidence at the informal hearing.
- (C) Any contested finding of fact that may not be based solely on hearsay evidence.
- (D) The hearing officer shall base findings of fact upon a preponderance of the evidence.
- (E) The hearing officer's order may not recommend a penalty more severe than that sought in the notice of agency action, nor administrative fines exceeding \$3,000, a suspension of the license, permit, or certificate of approval for more than 10 days, or a revocation of the license, permit, or certificate of approval.
- (F) A The hearing officer shall promptly mail the order to the respondent and the Department.
- (G) The hearing officer shall wait 10 days after the order is served for written objections, if any.
- (H) Upon receipt of objections, the hearing officer may amend or supplement the hearing officer's findings of fact, conclusions of law, or recommendations to reflect the objections that have merit or are not disputed.
- (I) Upon expiration of 10-day period for filing written objections, the hearing officer shall submit the order and any written objections timely filed to the Commission for final consideration.
- (J) The hearing officer or presiding officer may grant a motion to file a late objection for good cause or excusable neglect.
- (ii) Commission Action. Upon expiration of 10-day period for filing written objections to the hearing officer's order under Subsection (2)(d)(i), the Commission shall place the order on the next available agenda of a regular Commission meeting for consideration by the Commission.
- (B) The Commission shall finally decide the matter on the basis of the order and any objections submitted.
- (C) No additional evidence shall be presented to the Commission when considering the order and objections.
- (D) The Commission may, in the Commission's discretion, permit the respondent and the Department to present oral presentations at the Commission meeting.
- (E) The Commission is deemed a substitute hearing officer under Section 63G-4-103 when deciding the matter.

(F) The Commission's review and decision is not considered a "review of an order by an agency or a superior agency" under Sections 63G-4-301 and 63G-4-302.

(G) After the Commission has reached a final decision, the Commission shall issue or cause to be issued a signed, written order pursuant to Sections 32B-3-204 and 63G-4-203 containing:

- (I) the decision;
- (II) the reasons for the decision;
- (III) findings of fact;
- (IV) conclusions of law;
- (V) the action ordered by the Commission and effective date of the action taken; and

(VI) notice of the right to seek judicial review of the order within 30 days from the date the order is in the district court in accordance with Sections 63G-4-401 through 63G-4-405 and 32B-3-207.

(H) The Commission may adopt in whole or in part, any portion of the initial hearing officer's order.

(I) The Commission shall base the Commission's order on the facts appearing in the Department's files and presented in evidence at the informal hearing.

(J) The Commission order may not impose a penalty more severe than that sought in the notice of agency action, nor administrative fines exceeding \$3,000, a suspension of the license, permit, or certificate of approval for more than 10 days, or a revocation of the license, permit, or certificate of approval.

(K) Upon issuance, a copy of the Commission's order shall be promptly mailed to the parties.

(L) The Commission may direct the Department to prepare, issue, and cause to be served on the parties the Commission's order.

(e) Judicial review. An appeal of informal adjudicative proceedings may be filed with the district court in accordance with Sections 63G-4-402 through 63G-4-405 and 32B-3-207.

(4) The formal adjudicative process.

(a) Conversion procedures.

(i) If a hearing officer converts an informal adjudicative proceeding to a formal adjudicative proceeding under this rule:

(A) the hearing officer shall notify the parties that the adjudicative proceeding is to be conducted formally according to the provisions of this rule and Sections 63G-4-204 through 63G-4-209

(B) the case shall proceed without requiring the issuance of a new or amended notice of agency action; and

(C) the respondent shall file a written response to the original notice of agency action within 30 days after the notice of the conversion of the adjudicative proceeding to a formal proceeding is served, unless this requirement is waived by the Department.

(ii)(A) An extension of time to file a response is not favored, but may be granted by the hearing officer for good cause shown.

(B) The respondent's failure to file a timely response waives the respondent's right to contest the matters stated in the notice of agency action, and the hearing officer may enter an order of default and proceed to prepare and serve the hearing officer's final order in accordance with Subsection (4)(e).

(C) The response set forth in clear and concise terms:

(I) the case number assigned to the action;

(II) the name of the adjudicative proceeding, "Department of Alcoholic Beverage Services vs. (insert name of respondent)";

(III) the name of the respondent;

(IV) whether the respondent admits, denies, or lacks sufficient knowledge to admit or deny each allegation stated in the notice of agency action, in which event the allegation is deemed denied;

(V) any facts in defense or mitigation of the alleged violation or possible penalty;

(VI) a brief summary of any attached evidence, including supporting documents, exhibits, signed statements, or transcripts;

(VII) a statement of the relief the respondent requests; and

(VIII) a statement summarizing the reasons that the relief requested should be granted.

(iv) The hearing officer may:

(A) permit or require pleadings in addition to the notice of agency action and the response to be filed with the hearing officer and copies sent by mail to each party; and

(B) upon motion of a party made at or before the hearing, allow any pleading to be amended or corrected.

(v) The hearing officer shall disregard a defect in a pleading that does not substantially prejudice any of the parties.

(vi)(A) A party or the party's attorney shall sign a pleading.

(B) A pleading shall include the signer's address and telephone number.

(C) The signature on a pleading is deemed to be a certification by the signer that the signer has read the pleading and taken reasonable measures to ensure its truth.

(b) Intervention.

(i) Petition. A person who is not a party may file a signed, written petition to intervene in a formal adjudicative proceeding with the hearing officer.

(ii) The petition shall include:

(A) the Department's case number;

(B) a statement of facts demonstrating that the petitioner's legal rights or interests are substantially affected by the formal adjudicative proceedings or that the petitioner qualifies as an intervenor under any provision of law; and

(C) a statement of the relief that the petitioner seeks from the agency.

(iii) The person who wishes to intervene shall mail a copy of the petition to each party

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(iv)(A) Response to petition. A party to a proceeding into which intervention is sought may make an oral or written response to the petition for intervention.

(B) The response shall state the basis for opposition to intervention and may suggest limitations to be placed upon the intervenor if intervention is granted.

(C) The party shall present or file the response at or before the hearing.

(v) Granting of petition. The hearing officer shall grant a petition for intervention if the hearing officer determines that:

(A) the petitioner's legal interests may be substantially affected by the formal adjudicative proceeding; and

(B) the interests of justice and the orderly and prompt conduct of the adjudicative proceedings will not be materially impaired by allowing the intervention.

(vi) Order requirements.

(A) Any order granting or denying a petition to intervene shall be in writing and sent by mail to the petitioner and each party.

(B) An order permitting intervention may impose conditions on the intervenor's participation in the adjudicative proceeding that are necessary for a just, orderly, and prompt conduct of the adjudicative proceeding.

(C) The hearing officer may impose conditions at any time after the intervention.

(D) If it appears during the proceeding that an intervenor has no direct or substantial interest in the proceeding and that the public interest does not require the intervenor's participation, the hearing officer may dismiss the intervenor from the proceeding.

(E) In the interest of expediting a hearing, the hearing officer may limit the extent of participation of an intervenor.

(F) If two or more intervenors have substantially like interests and positions, the hearing officer may at any time during the hearing limit the number of intervenors who will be permitted to testify, cross-examine witnesses, or make and argue motions and objections.

(c) Discovery and subpoenas.

(i) Upon the motion of a party and for good cause shown that it is to obtain relevant information necessary to support a claim or defense, the hearing officer may authorize the manner of discovery against another party or person, including the staff, as may be allowed by the Utah Rules of Civil Procedure.

(ii) The hearing officer shall issue subpoenas and orders to secure the attendance of witnesses or the production of evidence in formal adjudicative proceedings when requested by any party, or upon the hearing officer's own motion.

(d) The formal hearing.

(i)(A) Notice and continuances. The hearing officer shall notify the parties in writing of the date, time, and place of the formal hearing at least 10 days before the hearing.

(B) The hearing officer's name, title, mailing address, and telephone number shall be provided to the parties.

(C) A continuance of a hearing is not favored, but may be granted by the hearing officer for good cause shown.

(D) The respondent's failure to appear at the hearing after notice has been given is grounds for default and waives the respondent's right to contest the allegations and to the hearing.

(E) If the respondent fails to appear, the hearing officer shall prepare and serve on the respondent an order in accordance with this rule.

(ii)(A) Public hearing. Except as provided in Subsection (4)(d)(ii)(B), a formal hearing is open to the public.

(B) The hearing officer may order the hearing closed upon a written finding that the public interest in an open hearing is clearly outweighed by factors enumerated in the closure order.

(C) The hearing officer may take appropriate measures necessary to preserve the integrity of the formal hearing.

(iii) Rights of parties. The hearing officer:

(A) shall regulate the course of the formal hearing to obtain full disclosure of relevant facts and to afford all the parties reasonable opportunity to present their positions, present evidence, argue, respond, conduct cross-examinations, and submit rebuttal evidence.

(B) may give persons not a party to the adjudicative proceeding the opportunity to present oral or written statements at the formal hearing.

(iv)(A) Rules of evidence. Technical rules of evidence do not apply to a formal hearing.

(B) Except as provided in Subsection (4)(d)(iv)(C), the hearing officer may admit reliable evidence at the hearing.

(C) The hearing officer:

(I) may exclude evidence that is irrelevant, immaterial or unduly repetitious;

(II) shall exclude evidence privileged in the courts of Utah;

(III) shall recognize presumptions and inferences recognized by law;

(IV) may receive documentary evidence in the form of a copy or excerpt if the copy or excerpt contains all the pertinent portions of the original document;

(V) may take official notice of any facts that could be judicially noticed under the Utah Rules of Evidence, of the record of other proceedings before the agency, and of technical or scientific facts within the agency's specialized knowledge;

(VI) may not exclude evidence solely because it is hearsay; and

(VII) may use the hearing officer's experience, technical competence, and specialized knowledge to evaluate the evidence.

(v) Oath. All testimony presented at the hearing, if offered as evidence to be considered in reaching a decision on the merits, shall be given under oath.

(vi) Order of presentation. Unless otherwise directed by the hearing officer at the hearing, the order of procedure and presentation of evidence is as follows:

(A) the Department;

(B) the respondent;

(C) the intervenors; and

(D) the rebuttal by the Department.

(vii) The hearing officer may set reasonable time limits for the presentations described in Subsection (2)(d)(vi).

(viii) Continuances of the formal hearing.

(A) The hearing officer may grant a continuance of the formal upon motion of a party indicating good cause as to why a continuance is necessary or upon the motion of the hearing officer when in the public interest.

(B) If the hearing is continued to a time and date certain announced at the hearing, a new notification of the hearing is not required.

(ix) Oral argument and briefs. Upon the conclusion of the taking of evidence, the hearing officer may, in the hearing officer's discretion, permit the parties to make oral arguments or submit additional briefs or memoranda upon a schedule the hearing officer designates.

(x) Record of hearing.

(A) The hearing officer shall cause an official record of the hearing to be made, at the Department's expense, by an audio or video recorder or other recording device, by a certified shorthand reporter employed by the Department or, if the Department chooses not to employ a reporter, by a party desiring to employ a certified shorthand reporter at the party's expense.

(B) If a party employs a certified shorthand reporter, the original transcript of the hearing shall be filed with the Department and a person who desires a copy of the certified shorthand reporter's transcript may purchase the copy from the reporter.

(C) A respondent, at the respondent's expense, may have a person approved by the Department prepare a transcript of the hearing, subject to any restrictions that the Department is permitted by statute to impose to protect confidential information disclosed at the hearing.

(D) The Department shall make a transcript or audio or video recording of a hearing available at the Department for use by the parties, but the original transcript or recording may not be withdrawn.

(E) The Department shall retain the record of the evidentiary hearing for a minimum of one year from the date of the hearing, or until the completion of any court proceeding on the matter.

(xii) Failure to appear.

(A) Inexcusable failure of the respondent to appear at a scheduled evidentiary hearing after receiving proper notice constitutes an admission of the charged violation.

(B) The validity of any hearing is not affected by the failure of any person to attend or remain in attendance pursuant to Subsections 32B-3-203(3)(b) and (c).

(e) Disposition.

(i) Hearing officer's order.

(A) Within a reasonable time after the close of the formal hearing, or after the filing of any post-hearing papers permitted by the hearing officer, the hearing officer shall sign and issue a written order that includes the following:

(I) the findings of fact based exclusively on evidence found in the record of the adjudicative proceedings, or facts officially noted; a preponderance of the evidence, except if the respondent fails to respond, the findings of fact shall adopt the allegations in the notice of agency action.

(II) conclusions of law;

(III) the decision;

(IV) the reasons for the decision;

(V) recommendations for final Commission action; and recommend a penalty more severe than the penalty sought in the notice of agency action.

(VI) notice that a respondent or the Department having objections to the hearing officer's order may file written objections with the hearing officer within 10 days after the order is served setting forth the particulars in which the report is alleged to be unfair, inaccurate, incomplete, unreasonable, unlawful, or not supported by the evidence.

(B) A contested finding of fact may not be based solely on hearsay evidence.

(C) The hearing officer shall base findings of fact upon

(D) The hearing officer's order may not

(E) The hearing officer shall promptly mail the order to the parties.

(F) The hearing officer shall wait 10 days after the order is served for written objections, if any.

(G) Upon receipt of objections, the hearing officer may amend or supplement the hearing officer's findings of fact, conclusions of law, or recommendations to reflect the objections that have merit and are not disputed.

(H) Upon expiration of the 10-day period for filing written objections, the hearing officer shall submit the order and any written objections timely filed to the Commission for final consideration.

(ii) Commission action.

(A) Upon expiration of the 10-day period for filing objections under Subsection (4)(e)(i), the Commission shall place the on the next available agenda of a regular Commission meeting for consideration by the Commission.

(B) The Commission shall finally decide the matter on the basis of the order and any objections submitted.

(E) The Commission is deemed a substitute hearing officer under Section 63G-4-103 when deciding the matter.

(F) The Commission's review and decision is not considered a "review of an order by an agency or a superior agency" under Sections 63G-4-301 and 63G-4302.

(C) No additional evidence shall be presented to the Commission when considering the order and objections.

(D) The Commission may, in the Commission's discretion, permit the parties to present oral presentations at the Commission meeting.

(G) After the Commission reaches a final decision, the Commission shall issue or cause to be issued a signed, written order pursuant to Sections 32B-3-204 and 63G-4-208 containing:

(I) findings of fact based exclusively on evidence found in the record of the adjudicative proceedings, or facts officially noted;

(II) conclusions of law;

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- (III) the decision;
- (IV) the reasons for the decision;
- (V) the action ordered by the Commission and effective date of the action taken;
- (VI) notice of the right to file a written request for reconsideration within 10 days after the order is served;
- (VII) notice of the right to seek judicial review of the order within 30 days after the order is issued in the court of appeals in accordance with Sections 32B-3-207 and 63G-4-403, through 63G-4-405.
- (D) A contested finding of fact may not be based solely on hearsay evidence.
- (E) The Commission shall base findings of fact upon a preponderance of the evidence, except if the respondent fails to respond, then the findings of fact shall adopt the allegations in the notice of agency action and the respondent is considered in default.
- (F) The Commission's order may not impose a penalty more severe than the penalty sought in the notice of agency action.
- (H) The Commission may adopt in whole or in part, any portion of the initial hearing officer's order.
- (I) The Commission may use the Commission's experience, technical competence, and specialized knowledge to evaluate the evidence.
- (J) Except as provided in Subsection (4)(e)(ii)(K), the Commission shall promptly mail a copy of the Commission's order to the parties.
- (K) The Commission, after it has made its final decision and order, may direct the Department to prepare, issue, and cause to be served on the parties the final written order on behalf of the Commission.
- (iii) Reconsideration of Commission's order.
- (A) A respondent having objections to the order of the Commission may file, within 10 days after the order is served, a request for reconsideration with the Commission, setting forth the particulars in which the order is unfair, unreasonable, unlawful, or not supported by the evidence.
- (B) If the request is based upon newly discovered evidence, the respondent shall include with the request for reconsideration a summary of the new evidence, with a statement of reasons why the respondent could not with reasonable diligence have discovered the evidence before the formal hearing, and why the evidence would affect the Commission's order.
- (C) The filing of a request for reconsideration is not a prerequisite for seeking judicial review of the Commission's order.
- (D) Within 20 days after the filing of a request for reconsideration, the Commission may issue or cause to be issued a written order granting the request or denying the request in whole or in part.
- (E) If the Commission grants the request, the Commission shall limit the request to the matter specified in the order.
- (F) Upon reconsideration, the Commission may confirm the former Commission order, vacate, change, or modify the former Commission order in any particular, or remand the matter for further action.
- (G) The final order on the request for reconsideration shall have the same force and effect as the Commission's original order.
- (H) If the Commission does not issue an order on the request for reconsideration within 20 days after the filing of the request, the request is considered denied.
- (f) Judicial Review. An appeal from formal adjudicative proceedings may be filed with the Utah Court of Appeals in accordance with Sections 32B-3-207 and 63G-4-403 through 63G-5-405.

R82-3-104. Orders to Show Cause.

- (1) Authority. This rule is made pursuant to Sections 32B-2-202 and 32B-3-202.
- (2)(a) If a licensee or permittee fails to maintain the fundamental, minimum qualifications provided by law for holding a license or permit, the Department shall issue an order to show cause to the licensee or permittee.
- (b) A failure to maintain fundamental, minimum qualifications includes:
 - (i) a failure to maintain insurance;
 - (ii) - a failure to maintain a bond;
 - (iii) a failure to notify the Department regarding a change of ownership as described in Section 32B-18-202;
 - (iv) a failure to maintain records showing the appropriate amount of food sales for the license type; or
 - (iv) receiving a conviction for a criminal offense that disqualifies the licensee or permittee from holding the license or permit.
- (3) The order to show cause shall:
 - (a) identify the time and place of the hearing on the order to show cause;
 - (b) identify the qualification that the licensee or permittee is alleged to have failed to maintain; and
 - (c) require the licensee or permittee to provide the Commission with proof that the licensee or permittee maintains the fundamental, minimum qualifications to hold the license or permit.
- (4) The Department shall mail the order to show cause to the address on file of the licensee or permittee no later than ten calendar days before the day on which the hearing described in Subsection (3) is scheduled to be held.
- (5) If a licensee or permittee provides the Department with proof that the licensee or permittee maintains the fundamental, minimum qualifications to hold the license or permit before the scheduled hearing, the Department shall notify the chair of the Commission and the Commission may:
 - (a) cancel the hearing;
 - (b) remove the order to show cause from the hearing agenda; or
 - (c) require the licensee or permittee to attend the hearing and provide the Commission with proof of the fundamental, minimum qualifications.
- (6) If a licensee or permittee fails to provide the Commission with proof that the licensee or permittee maintains the fundamental, minimum qualifications to hold the license or permit at a scheduled hearing, the Commission shall:

- (a) suspend, revoke, or deem forfeited the license or permit; or
- (b) hold the hearing on the order to show cause until the next Commission meeting.
- (7) An order to show cause issued pursuant to this rule ~~are~~^{is} not required to comply with Title 63G, Chapter 4, Administrative Procedures Act or Section R82-3-103.

R82-3-105. Consent Calendar Procedures.

(1) Authority. This rule is pursuant to the Commission's authority to establish procedures for suspending or revoking permits, licenses, and package agencies under [s]Subsections 32B-2-202(1)(c) and (e), and the Commission's authority to adjudicate violations of Title 32B in accordance with [s]Subsections 32B-2-202(1)(p), 32B-3-204(4), and 32B-3-205(1).

(2) Purpose. This rule establishes a consent calendar procedure for handling letters of admonishment issued and settlement agreements proposed pursuant to R82-3-103 that meet the following criteria:

- (a) Uncontested letters of admonishment where no written objections have been received from the respondent; and
- (b) Settlement agreements except those where the respondent is allowed to present further argument to the Commission under the terms of the settlement agreement.

(3) Application of the Rule.

(a) A consent calendar may be utilized by the Commission at their meetings to expedite the handling of letters of admonishment and settlement agreements that meet the criteria of ~~subpart~~ Subsection (2) of this ~~Section~~ rule.

(b) Consent calendar items shall be briefly summarized by Department staff or the assistant attorney general assigned to the Department. The summary shall describe the nature of the violations and the penalties sought.

(c)(i) The Commission shall be furnished in advance of the meeting a copy of each letter of admonishment and settlement agreement on the consent calendar and any documents essential for the Commission to make an informed decision on the matter.

(ii) If the case involves anything unusual or out of the ordinary, it shall be highlighted on the letter of admonishment or settlement agreement and shall be noted by the Department staff person or assistant attorney general during the summary of the case.

(iii) Settlement agreements on the consent calendar shall include specific proposed dates for the suspension of any license or permit, and for payment of any fines or administrative costs.

(d) If the case involves a serious or grave violation as defined in R82-3-102, the licensee or permittee, absent good cause, shall be in attendance at the Commission meeting. The licensee or permittee shall be present not to make a presentation, but to respond to any questions from the Commission. Individual employees of a licensee or permittee are not required to be in attendance at the Commission meeting.

(e) Any Commissioner may have an item removed from the consent calendar if the Commissioner feels that further inquiry is necessary before reaching a final decision. In the event a Commissioner elects to remove an item from the consent calendar, and the licensee or permittee is not in attendance, the matter may be rescheduled for the next regular Commission meeting. Otherwise, the action recommended by Department staff or the assistant attorney general presenting the matter shall be approved by unanimous consent of the Commission.

(f) All consent calendar items shall be approved in a single motion at the conclusion of the presentation of the summary.

(g) All fines and administrative costs associated with a consent calendar item shall be paid on or before the day of the Commission meeting unless otherwise provided by order of the Commission.

R82-3-106. Commission Declaratory Orders.

(1) Authority. As required by [s]Section 63G-4-503, and as authorized by [s]Section 32B-2-202, this rule provides the procedures for the submission, review, and disposition of petitions for Commission declaratory orders on the applicability of statutes administered by the Commission and Department, rules promulgated by the Commission, and orders issued by the Commission.

(2) Petition Procedure.

(a) Any person or government agency directly affected by a statute administered by the Commission, a rule promulgated by the Commission, or an order issued by the Commission may petition for a declaratory order.

(b) The petitioner shall file the petition with the Commission's executive secretary.

(3) Petition Form. The petition shall:

- (a) be clearly designated as a request for a declaratory order;
- (b) identify the statute, rule, or order to be reviewed;
- (c) describe the situation or circumstances giving rise to the need for the declaratory order, or in which applicability of the statute, rule, or order is to be reviewed;

(d) describe the reason or need for the applicability review;

(e) identify the person or agency directly affected by the statute, rule, or order;

(f) include an address and telephone number where the petitioner can be reached during regular workdays; and

(g) be signed by the petitioner.

(4) Petition Review and Disposition.

(a) The Commission shall:

(i) review and consider the petition;

(ii) prepare a declaratory order stating:

(A) the applicability or non-applicability of the statute, rule, or order at issue;

(B) the reasons for the applicability or non-applicability of the statute, rule, or order; and

(C) any requirements imposed on the Department, the petitioner, or any person as a result of the declaratory order;

(iii) serve the petitioner with a copy of the order.

(b) The Commission may:

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- (i) interview the petitioner;
- (ii) hold an informal adjudicative hearing to gather information before making its determination;
- (iii) hold a public information-gathering hearing on the petition;
- (iv) consult with Department staff, the Attorney General's Office, other government agencies, or the public; and
- (v) take any other action necessary to provide the petition adequate review and due consideration.

R82-3-107. Responsible Alcohol Service Plan.

(1) Authority. This rule is made pursuant to the Commission's powers and duties under Sections 32B-1-103 and 32B-2-202 to act as a general policymaking body on the subject of alcoholic beverage control, set policy by written rules that establish criteria and procedures for suspending or revoking licenses, and prescribe the conduct and management of any premises upon which alcoholic beverages may be sold, consumed, served, or stored.

(2) Purpose. This rule requires a licensee to provide a Responsible Alcohol Service Plan with the licensee's initial application, upon renewal if the Responsible Alcohol Service Plan has had a substantial change, or if the licensee has been found by the Commission to have violated any provision of the Alcoholic Beverage Control Act relating to the sale, service, or furnishing of alcoholic beverages to an intoxicated person, or to a person under the age of 21.

(3) Definitions.

(a) "Intoxication" and "intoxicated" mean the same as those terms are defined in Section 32B-1-102.

(b) "Licensed business" means a person or business entity licensed by the Commission to sell, serve, and store alcoholic beverages for consumption on the premises of the business.

(c) "Manager" means a person chosen or appointed to manage, direct, supervise, or administer the operations at a licensed business, regardless of the person's title.

(d) "Responsible Alcohol Service Plan" or "Plan" means a written set of policies and procedures of a licensed business that outline measures that will be taken by the business to prevent employees of the licensed business from:

- (i) over-serving alcoholic beverages to customers;
- (ii) serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated; and
- (iii) serving alcoholic beverages to persons under the age of 21.

(e) "Server" means an employee who [~~actually~~] makes available, serves to, or provides an alcoholic beverage to a customer for consumption on the business premises.

(f) "Supervisor" means an employee who, under the direction of a manager or owner, directs or has the responsibility to direct, transfer, or assign duties to employees who [~~actually~~] provide alcoholic beverages to customers on the premises of the business.

(4) Application.

(a)(i) The Commission may direct that a licensed business that has been found by the Commission to have violated any provision of the Title 32B, Alcoholic Beverage Control Act, relating to the sale, service, or furnishing of alcoholic beverages to an intoxicated person, or to a person under the age of 21, submit to the Department a Responsible Alcohol Service Plan.

(ii) The licensee thereafter shall, at a minimum, maintain a Responsible Alcohol Service Plan as a condition of continued licensing and relicensing by the Commission.

(b) Any Responsible Alcohol Service Plan at a minimum shall:

(i) outline the policies and procedures of the licensed business to:

- (A) prevent over-service of alcohol;
- (B) prevent service of alcohol to persons who are intoxicated;
- (C) prevent service of alcohol to persons under the age of 21;
- (D) provide alternate transportation options for problem customers; and
- (E) deal with hostile customers;

(ii) require that all managers, supervisors, servers, security personnel, and others who are involved in the sale, service or furnishing of alcohol, agree to follow the policies and procedures of the Plan;

(iii) require adherence to the Plan as a condition of employment;

(iv) require a commitment by management to monitor employee compliance with the Plan;

(v) require periodic training sessions on the house policies and procedures in the Plan, and on the techniques of responsible service of alcohol taught in the Alcohol Training and Education Seminar described in Section 26B-5-205, such as:

- (A) identifying legal forms of ID, checking ID, and recognizing fake ID;
- (B) identifying persons under the age of 21;
- (C) discussing the legal definition of intoxication;
- (D) identifying behavioral signs of intoxication;
- (E) discussing techniques for monitoring and controlling consumption such as:
 - (1) drink counting;
 - (2) slowing down alcohol service;
 - (3) offering food or nonalcoholic beverages; and
 - (4) cutting off alcohol service;
- (F) discussing third party or "dram shop" liability for the unlawful service of alcohol to intoxicated persons and persons under the age of 21 as outlined in Title 32B, Chapter 15, Alcoholic Product Liability Act; and
- (G) discussing the potential criminal, civil and administrative penalties for over-serving alcohol, selling, serving, or otherwise furnishing alcohol to persons who are intoxicated, or to persons who are under the age of 21.

(c) The licensed business may choose to include in the Plan incentives for those employees who deserve special recognition for their responsible service of alcohol.

(d) The Plan shall be available on the premises of the licensed business so as to be accessible to any employees of the licensed business who are involved in the sale, service, or furnishing of alcohol.

(e) The Plan shall be available on the premises of the licensed business for inspection by representatives of the Commission, the Department and by law enforcement officers.

(f) Any licensed business that fails to submit to the Department a Plan as directed by the Commission pursuant to Subsection (4)(a), or to have a Plan available for inspection as required by Subsection (4)(e), shall be subject to the immediate suspension or revocation of its current license, and shall not be granted a renewal of its license by the Commission.

KEY: alcoholic beverages

Date of Last Change: 2025[November 22, 2024]

Notice of Continuation: February 5, 2025

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Agency Information

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City, state:		Salt Lake City UT 84111	
Mailing address:		PO Box 146741	
City, state and zip:		Salt Lake City UT 84114-6741	
Contact persons:			
Name:		Phone:	Email:
Matt Johnson		801-530-6701	mmjohnson@utah.gov
Tracy Taylor		801-530-6621	trtaylor@utah.gov
Please address questions regarding information on this notice to the persons listed above.			

General Information

2. Rule or section catchline:
R156-9. Funeral Service Licensing Act Rule
3. Purpose of the new rule or reason for the change:
The proposed amendment will bring this rule into compliance with recently passed legislation and make other nonsubstantive changes conforming with current Division of Professional Licensing (Division) style and formatting guidelines.
4. Summary of the new rule or change:
In addition to nonsubstantive changes, the proposed amendment removes requirements in Subsection R156-9-402(5) that all training requirements for people applying to become funeral service directors must be completed in a minimum of one year. This minimum time requirement was removed from the statute as part of HB 216 (passed in the 2024 General Session).

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The Division does not anticipate additional costs or savings to the state budget. Any costs associated with bringing this rule into conformity with HB 216 (2024) have been included in that legislation's fiscal notes.

B) Local governments:

The Division does not anticipate additional costs or savings to any local government's budget. Any costs associated with bringing the rule into conformity with HB 216 (2024) have been included in that legislation's fiscal notes.

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

The Division does not anticipate additional costs or savings to small businesses. Costs associated with bringing the rule into conformity with HB 216 (2024) have been included in that legislation's fiscal notes.

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

The Division does not anticipate additional costs or savings to any non-small businesses. Costs associated with bringing the rule into conformity with HB 216 (2024) have been included in that legislation's fiscal notes.

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

The Division does not anticipate additional costs or savings to any persons other than small businesses, non-small businesses, state, or local government entities. Costs associated with bringing the rule into conformity with HB 216 (2024) have been included in that legislation's fiscal notes.

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

By updating the rule to reflect the changes made by HB 216 (2024), individuals who have fulfilled their training requirements in less than 12 months will no longer need to wait to apply for full licensure as funeral service directors. The Division believes this reduction in waiting periods may reduce, but will not increase, costs to affected persons.

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

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

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

The Executive Director of the Department of Commerce, Margaret W. Busse, 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 58-1-106(1)(a)

Subsection 58-1-202(1)(a)

Section 58-9-504

Public Notice Information

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

A) Comments will be accepted until:

07/01/2025

B) A public hearing (optional) will be held:**Date:**

06/27/2025

Time:

02:00 PM

Place (physical address or URL):

Anchor Meeting:
Heber M. Wells Building
Room 402
160 East 300 South
Salt Lake City UT 84111

Google Meet:
meet.google.com/pss-tkwz-rtf

9. This rule change MAY become effective on:

07/08/2025

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:**

Mark B. Steinagel, Division Director

Date:

10/19/2024

R156. Commerce, ~~Occupational and~~ Professional Licensing.

R156-9. Funeral Service Licensing Act Rule.

R156-9-101. Short ~~4~~ Title - Authority -- Relationship to Rule R156-1.

(1) This rule shall be known as the "Funeral Service Licensing Act Rule."^[?]

(2) This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 9, the Funeral Service Licensing Act.

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

~~R156-9-103. Authority - Purpose.~~

~~This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 9.~~

~~R156-9-104. Organization - Relationship to Rule R156-1.~~

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

R156-9-402. Duties and Responsibilities of a Funeral Service Director in Supervision of Funeral Service Interns, Preneed Funeral Arrangement Sales Agents and Unlicensed Staff.

The duties and responsibilities of a supervising funeral service director include:

(1) being professionally responsible for the acts and practices of the supervisee;
(2) being engaged in a relationship with the supervisee in which the supervisor is independent from control by the supervisee and in which the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised;

(3) being available for advice, consultation, and direction consistent with the standards and ethics of the profession and the requirements suggested by the total circumstances including the supervisee's level of training;

(4) monitoring the performance of the supervisee for compliance with laws, standards, and ethics applicable to the funeral service profession, including the ~~[Utah Vital Statistics Rules]~~ Data, Systems and Evaluation, Vital Records and Statistics rules of the Utah Department of Health and Human Services (Title R436);

(5) (a) submitting appropriate documentation to the Division with respect to ~~[all]~~ any work completed by the funeral service intern evidencing the performance of the supervisee during the period of supervised training, including the supervisor's evaluation of the supervisee's competence in the practice of the funeral service profession^[?]; and

(b) submitting this report~~[- This report shall be submitted]~~ to the Division;

(i) within 30 days after the supervisor-supervisee relationship is terminated; or

NOTICES OF PROPOSED RULES

- _____ (ii) within 30 days after the supervisee has;
- _____ (A) completed 2,000 hours of supervised experience ~~[-in a period exceeding one year-];~~
- _____ (B) performed 50 embalmings; ~~[-];~~ and
- _____ (C) has satisfactorily completed ~~[all]~~ the duties and functions of an intern throughout the entire internship period;
- (6) supervising not more than one funeral service intern at any given time unless approved by the Board and Division;
- (7) being physically present and directly supervising, or ensuring that another funeral director directly supervises ~~[all]~~ the duties and functions completed by a funeral service intern throughout the entire internship period;
- (8) being responsible for and signing ~~[all]~~ any preneed and at need funeral contracts sold by persons under supervision;
- (9) assuring each supervisee is appropriately licensed as a funeral service intern or preneed funeral arrangement sales agent before ~~[prior to]~~ beginning the supervision;
- (10) ~~(a)~~ notifying the Division ~~[of]~~ if beginning or ending ~~[of]~~ an association or employment of a preneed sales agent with the funeral service establishment;
- _____ (b) within ten days of beginning or ending the association or employment; and ~~[-]~~
- _____ (c) using the notification ~~[Notification shall be made on]~~ forms provided by the Division; and
- _____ (11) assuring that the supervision requirements ~~[are met as required-]~~ in Section 58-9-307 are met.

KEY: funeral industries, licensing, funeral service directors, preneed funeral arrangements

Date of Last Change: ~~[November 21, 2019]~~ 2025

Notice of Continuation: November 5, 2020

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-9-504

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Repeal

Rule or Section Number:

R380-808

Filing ID: 57118

Agency Information

1. Title catchline:		Health and Human Services, Administration	
Building:		Multi-Agency State Office Building	
Street address:		195 N 1950 W	
City, state:		Salt Lake City, UT	
Mailing address:		195 N 1950 W	
City, state and zip:		Salt Lake City, UT 84116	
Contact persons:			
Name:		Phone:	Email:
Carrie Bambrough		801-891-0630	cbambrough@utah.gov
Mariah Noble		385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.			

General Information

2. Rule or section catchline:
R380-808. Fatality Review Act
3. Purpose of the new rule or reason for the change:
Based on internal review and discussion with counsel, the Department of Health and Human Services determined that the provisions in Rule R380-808 are best suited to be laid out in policy rather than rule. As this policy already exists, it is appropriate to repeal Rule R380-808.
4. Summary of the new rule or change:
The rule is being repealed in its entirety.

Fiscal Information**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

There is no anticipated fiscal impact to the state budget as a result of this repeal. The provisions in this rule previous to this repeal will remain the same but will instead be housed in policy.

B) Local governments:

There is no anticipated fiscal impact to local governments as a result of this repeal. The provisions in this rule previous to this repeal will remain the same but will instead be housed in policy.

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

There is no anticipated fiscal impact to small businesses as a result of this repeal. The provisions in this rule previous to this repeal will remain the same but will instead be housed in policy.

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

There is no anticipated fiscal impact to non-small businesses as a result of this repeal. The provisions in this rule previous to this repeal will remain the same but will instead be housed in policy.

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 fiscal impact to other persons as a result of this repeal. The provisions in this rule previous to this repeal will remain the same but will instead be housed in policy.

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

There are no anticipated compliance costs as a result of this repeal. The provisions in this rule previous to this repeal will remain the same but will instead be housed in policy.

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

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

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

The Executive Director of the Department of Health and 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-1-201

Title 26B, Chapter 1, Part 5

Public Notice Information

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

A) Comments will be accepted until:

06/17/2025

9. This rule change MAY become effective on:

06/24/2025

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:

Tracy S. Gruber, Executive Director

Date:

04/22/2025

R380. Health and Human Services, Administration.

~~**R380-808. Fatality Review Act.**~~

~~**R380-808-1. Authority.**~~

~~_____ (1) The Department of Health and Human Services may adopt, amend, and enforce rules as necessary in Section 26B-1-201.~~

~~_____ (2) Sections 26B-1-501 through 26B-1-507 set forth the legal criteria and requirements for Department of Health and Human Services fatality reviews.~~

~~**R380-808-2. Statement of Purpose.**~~

~~_____ The purpose of this rule is to clarify reporting and reviews of fatality reports for the Department of Health and Human Services.~~

~~**R380-808-3. Completion of Deceased Client Reports.**~~

~~_____ In accordance with Subsection 26B-1-502(1), the department designates the following employees to complete a Notification of Deceased Client form: a worker, supervisor, or other Department of Health and Human Services employee who becomes aware of the death.~~

~~**R380-808-4. Referral to Office of Ombudsman.**~~

~~_____ (1) In the case of a child fatality, if the fatality review coordinator or the Fatality Review Committee determines that there are policies or procedure issues that are not related to the death or further case specific information is needed, the case may be referred to the Office of Ombudsman for a full case review.~~

~~_____ (2) Upon completion of the Office of Ombudsman case review, the analyst shall present the finding to the Fatality Review Committee for further review.~~

KEY: health, human services, fatality review

Date of Last Change: February 7, 2024

Authorizing, and Implemented or Interpreted Law: 26B-1-2-1; 26B-1-501; 26B-1-602; 26B-1-503; 26B-1-504; 26B-1-505; 26B-1-506; 26B-1-507]

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Repeal

Rule or Section Number:

R414-1C

Filing ID: 57119

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 84116

Mailing address:

PO Box 143102

City, state and zip:

Salt Lake City, UT 84114-3102

Contact persons:

Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov

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

General Information**2. Rule or section catchline:**

R414-1C. Coronavirus Public Health Emergency Period

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

In accordance with congressional joint resolution HJ7, which ended the coronavirus (COVID-19) public health emergency, this rule is being repealed in its entirety, as it is reliant on that public health emergency.

4. Summary of the new rule or change:

This rule is repealed in its entirety as the COVID-19 public health emergency has ended.

Fiscal Information**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

There is no anticipated fiscal impact to the state budget as this rule is intended to ensure state compliance with provisions set forth during the COVID-19 public health emergency period, which has ended. This repeal neither affects current nor future appropriations.

B) Local governments:

There is no anticipated fiscal impact on local governments as they neither fund nor provide benefits under the Medicaid program.

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

There is no anticipated fiscal impact to small businesses as this rule is intended to ensure state compliance with provisions set forth during the COVID-19 public health emergency period, which has ended. This repeal neither affects current nor future appropriations.

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

There is no anticipated fiscal impact to non-small businesses as this rule is intended to ensure state compliance with provisions set forth during the COVID-19 public health emergency period, which has ended. This repeal neither affects current nor future appropriations.

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 fiscal impact to Medicaid providers or Medicaid members as this rule is intended to ensure state compliance with provisions set forth during the COVID-19 public health emergency period, which has ended. This repeal neither affects current nor future appropriations.

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

There are no anticipated compliance costs to a single Medicaid provider or Medicaid member as this rule is intended to ensure state compliance with provisions set forth during the COVID-19 public health emergency period, which has ended. This repeal neither affects current nor future appropriations.

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

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

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

The Executive Director of the Department of Health and 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	
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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:	06/17/2025
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9. This rule change MAY become effective on:	06/24/2025
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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:	04/22/2025
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R414. Health, Health Care Financing Coverage and Reimbursement Policy.

~~[R414-1C. Coronavirus Public Health Emergency Period.~~

~~**R414-1C-1. Introduction and Authority.**~~

~~_____ (1) This rule is to ensure that any administrative rule does not conflict with measures taken by the state or the United States Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS) pertaining to the Coronavirus (COVID-19) public health emergency.~~

~~_____ (2) This rule is authorized by Section 63G-3-304 and Section 1135 of the Social Security Act.~~

~~**R414-1C-2. Policy During the COVID-19 Emergency Period.**~~

~~_____ (1) The Division of Medicaid and Health Financing (DMHF) suspends any of its administrative rules under R382, R410, and R414 that conflict with:~~

~~_____ (a) emergency waivers or state plan amendments approved by CMS during the declared COVID-19 emergency period;~~

- ~~(b) an executive order set forth by the Governor during the declared COVID-19 emergency period; or~~
~~(c) an action set forth by the Legislature during the declared COVID-19 emergency period.~~
~~(2) This rule shall remain in effect through the declared COVID-19 emergency period.~~

KEY: Medicaid

Date of Last Change: September 7, 2020

Authorizing, and Implemented or Interpreted Law: 26-18-3; 26-1-5; 63G-3-304]

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Repeal

Rule or Section Number:

R414-200

Filing ID: 57149

Agency Information

1. Title catchline:	Health and Human Services, Integrated Healthcare	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 143102	
City, state and zip:	Salt Lake City, UT 84114-3102	
Contact persons:		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R414-200. Non-Traditional Medicaid Health Plan Services
3. Purpose of the new rule or reason for the change:
This rule repeal is necessary as the Non-Traditional Medicaid (NTM) program no longer exists and its policies are outdated.
4. Summary of the new rule or change:
This rule is repealed in its entirety as NTM no longer exists and its policies no longer apply to Medicaid members.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated fiscal impact to the state budget as this repeal aligns administrative rule with current Medicaid policy and removes the mention of a program that is no longer in practice. The removal of this rule neither affects services to members nor reimbursement to providers.
B) Local governments:
There is no anticipated fiscal impact to local governments as they neither fund nor provide services under the Medicaid program.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated fiscal impact to small businesses as this repeal aligns administrative rule with current Medicaid policy and removes the mention of a program that is no longer in practice. The removal of this rule neither affects services to members nor reimbursement to providers.

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

There is no anticipated fiscal impact to non-small businesses as this repeal aligns administrative rule with current Medicaid policy and removes the mention of a program that is no longer in practice. The removal of this rule neither affects services to members nor reimbursement to providers.

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 fiscal impact to other persons as this repeal aligns administrative rule with current Medicaid policy and removes the mention of a program that is no longer in practice. The removal of this rule neither affects services to members nor reimbursement to providers.

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

There is no anticipated compliance cost to affected persons as this repeal aligns administrative rule with current Medicaid policy and removes the mention of a program that is no longer in practice. The removal of this rule neither affects services to members nor reimbursement to providers.

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

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

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

The Executive Director of the Department of Health and 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		
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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:	06/17/2025
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9. This rule change MAY become effective on:	06/24/2025
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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:	04/29/2025
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R414. Health and Human Services, Integrated Healthcare.

~~[R414-200. Non-Traditional Medicaid Health Plan Services.~~

~~R414-200-1. Introduction and Authority.~~

~~_____ This rule lists the services under the Non-Traditional Medicaid Health Plan (NTHP). This plan is authorized by a waiver of federal Medicaid requirements approved by the federal Center for Medicare and Medicaid Services and allowed under Section 1115 of the Social Security Act effective January 1, 1999. This rule is authorized by Title 26B, Chapter 3.~~

~~R414-200-2. Definitions.~~

~~_____ The definitions in Rule R414-1 apply to this rule.~~

~~R414-200-3. Services Available.~~

~~_____ (1) To meet the requirements of 42 CFR 431.107, the department contracts with each provider who furnishes services under the Non-Traditional Medicaid (NTM) Health Plan.~~

~~_____ (a) By signing a provider agreement with the department, the provider agrees to follow the terms incorporated into the provider agreements, including policies and procedures, provider manuals, Medicaid information bulletins, and provider letters.~~

~~_____ (b) By signing an application for Medicaid coverage, the applicant agrees that the department's obligation to reimburse for services is governed by contract between the department and the provider.~~

~~_____ (2) Medical or hospital services for which providers are reimbursed under the NTM Health Plan are limited by federal guidelines as set forth under Title XIX of the federal Social Security Act and Title 42 of the Code of Federal Regulations (CFR).~~

~~_____ (3) The following services, as more fully described and limited in provider contracts, provider manuals, and administrative rules, are available to NTM Health Plan members:~~

~~_____ (a) inpatient hospital services, provided by bed occupancy for 24 hours or more in an approved acute care general hospital under the care of a physician if the admission meets the established criteria for severity of illness and intensity of service;~~

~~_____ (b) medically necessary outpatient hospital services that include diagnostic, therapeutic, preventive, or palliative care, which are provided for less than 24 hours in outpatient departments located in or physically connected to an acute care general hospital;~~

~~_____ (c) emergency services in dedicated hospital emergency departments;~~

~~_____ (d) physician services provided directly by licensed physicians or osteopaths, or by licensed certified nurse practitioners or licensed certified nurse midwives under appropriate supervision of a physician or osteopath;~~

~~_____ (e) physician assistants may render services as independent practitioners pursuant to Title 58, Chapter 70a, Utah Physician Assistant Act;~~

~~_____ (f) services associated with surgery or administration of anesthesia provided by physicians or licensed certified nurse anesthetists;~~

~~_____ (g) vision care services by licensed ophthalmologists or licensed optometrists, within their scope of practice, limited to one annual eye examination or refraction and no eyeglasses;~~

~~_____ (h) laboratory and radiology services provided by licensed and certified providers;~~

~~_____ (i) dialysis to treat end-stage renal failure provided at a Medicare-certified dialysis facility;~~

~~_____ (j) home health services defined as intermittent nursing care or skilled nursing care provided by a Medicare-certified home health agency;~~

~~_____ (k) hospice services provided by a Medicare-certified hospice to terminally ill members with a six-month or less life expectancy, who elect to receive palliative care instead of aggressive care;~~

~~_____ (l) abortion and sterilization services to the extent permitted by federal and state law and meeting the documentation requirement of 42 CFR 440, Subparts E and F;~~

~~_____ (m) organ transplants, limited to kidney, liver, cornea, bone marrow, stem cell, heart, and lung transplants;~~

~~_____ (n) services provided in freestanding emergency centers, surgical centers and birthing centers;~~

~~_____ (o) transportation services, limited to ground and air ambulance for medical emergencies.~~

~~_____ (p) preventive services, immunizations and health education activities and materials to promote wellness, prevent disease, and manage illness;~~

~~_____ (q) family planning services provided by or authorized by a physician, certified nurse midwife, nurse practitioner, or a physician assistant to the extent permitted by federal and state law, but not to include infertility drugs, in vitro fertilization, and genetic counseling;~~

~~_____ (r) pharmacy services provided by a licensed pharmacy;~~

~~_____ (s) inpatient mental health services;~~

~~_____ (t) outpatient mental health services;~~

NOTICES OF PROPOSED RULES

- ~~_____ (u) outpatient substance abuse services;~~
- ~~_____ (v) hearing evaluations or assessments for hearing aids. NTM, however, will only cover hearing aids for congenital hearing loss;~~
- ~~_____ (w) dental services as allowed in the Utah Medicaid State Plan, ATTACHMENT 3.1 A, Attachment #10;~~
- ~~_____ (x) interpretive services if they are provided by entities under contract with the department to provide medical translation services for people with limited English proficiency and interpretive services for the deaf;~~
- ~~_____ (y) physical therapy services provided by a licensed physical therapist if authorized by a physician, limited to 16 aggregated physical or occupational therapy visits per calendar year; and~~
- ~~_____ (z) occupational therapy services provided for fine motor development, limited to 16 aggregated physical or occupational therapy visits per year.~~
- ~~_____ (4) NTM does not cover the following:~~
 - ~~_____ (a) chiropractic services;~~
 - ~~_____ (b) speech language pathology services;~~
 - ~~_____ (c) long term care;~~
 - ~~_____ (d) private duty nursing;~~
 - ~~_____ (e) non-emergency transportation; and~~
 - ~~_____ (f) bus passes.~~

KEY: Medicaid, non-traditional, cost sharing

Date of Last Change: November 10, 2023

Notice of Continuation: April 15, 2022

Authorizing, and Implemented or Interpreted Law: 26B-3; 26B-1-213]

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:

R414-312-8

Filing ID: 57150

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:
R414-312-8. Public Health Emergency Provisions
3. Purpose of the new rule or reason for the change:
In accordance with congressional joint resolution HJ7, which ended the coronavirus (COVID-19) public health emergency, this rule is being updated to remove Section R414-312-8, which provided oversight for the administration of the Adult Expansion Medicaid Program during that public health emergency.
4. Summary of the new rule or change:
This amendment removes Section R414-312-8 in its entirety as the coronavirus (COVID-19) public health emergency has concluded. As this is the last section of the rule, its removal does not create inconsistency with section numbering.

Fiscal Information**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

There is no anticipated fiscal impact to the state budget as this section provided oversight for the administration of the Adult Expansion Medicaid Program during the COVID-19 public health emergency period, which has ended. This filing neither affects current nor future appropriations.

B) Local governments:

There is no anticipated fiscal impact to local governments, as they neither fund nor provide services under the Medicaid program.

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

There is no anticipated fiscal impact to small businesses, as this section provided oversight for the administration of the Adult Expansion Medicaid Program during the COVID-19 public health emergency period, which has ended. This filing neither affects current nor future appropriations.

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

There is no anticipated fiscal impact to non-small businesses, as this section provided oversight for the administration of the Adult Expansion Medicaid Program during the COVID-19 public health emergency period, which has ended. This filing neither affects current nor future appropriations.

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 fiscal impact to other persons, as this section provided oversight for the administration of the Adult Expansion Medicaid Program during the COVID-19 public health emergency period, which has ended. This filing neither affects current nor future appropriations.

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

There are no anticipated compliance costs for affected persons, as this section provided oversight for the administration of the Adult Expansion Medicaid Program during the COVID-19 public health emergency period, which has ended. This filing neither affects current nor future appropriations.

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

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

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

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information

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

Section 26B-1-213

Section 26B-3-108

Public Notice Information

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

A) Comments will be accepted until:

06/17/2025

9. This rule change MAY become effective on:

06/24/2025

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:**

Tracy S. Gruber, Executive Director

Date:

04/29/2025

R414. Health and Human Services, Integrated Healthcare.**R414-312. Adult Expansion Medicaid.**~~**[R414-312-8. Public Health Emergency Provisions.**~~

~~The Adult Expansion Medicaid Program will be administered in accordance with the emergency provisions for Coronavirus (COVID-19) set forth in Section R414-304-17 and Section R414-308-11.]~~

KEY: Medicaid, adult expansion, eligibility**Date of Last Change:** ~~November 10, 2023~~ 2025**Notice of Continuation:** August 12, 2024**Authorizing, and Implemented or Interpreted Law:** 26B-3-108; 26B-1-213**NOTICE OF SUBSTANTIVE CHANGE****TYPE OF FILING:** Amendment**Rule or Section Number:****R414-502-3****Filing ID:** 57147**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:**

R414-502-3. Approval of Level of Care

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

In accordance with congressional joint resolution HJ7, which ended the coronavirus (COVID-19) public health emergency, it is necessary to update this rule to remove provisions related to the now-concluded public health emergency that no longer apply.

4. Summary of the new rule or change:

This amendment removes provisions for the coronavirus (COVID-19) public health emergency that concluded in May 2023.

It additionally makes minor style and formatting changes for compliance with the Rulewriting Manual for Utah.

Fiscal Information**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

There is no anticipated fiscal impact to the state budget as the result of this filing, as no fiscal changes accompany the removal of COVID-19 provisions and any fiscal impact would have only been applicable during the public health emergency period, which ended in May 2023.

B) Local governments:

There is no anticipated fiscal impact to local governments as the result of this filing, as they neither fund nor provide services under the Medicaid program.

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

There is no anticipated fiscal impact to small businesses as the result of this filing, as no fiscal changes accompany the removal of COVID-19 provisions and any fiscal impact would have only been applicable during the public health emergency period, which ended in May 2023.

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

There is no anticipated fiscal impact to non-small businesses as the result of this filing, as no fiscal changes accompany the removal of COVID-19 provisions and any fiscal impact would have only been applicable during the public health emergency period, which ended in May 2023.

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 fiscal impact to other persons as the result of this filing, as no fiscal changes accompany the removal of COVID-19 provisions and any fiscal impact would have only been applicable during the public health emergency period, which ended in May 2023.

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

There are no anticipated compliance costs expected for affected persons, as no fiscal changes accompany the removal of COVID-19 provisions and any fiscal impact would have only been applicable during the public health emergency period, which ended in May 2023.

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

NOTICES OF PROPOSED RULES

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

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

The Executive Director of the Department of Health and 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	
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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:	06/17/2025
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9. This rule change MAY become effective on:	06/24/2025
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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:	04/29/2025
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R414. Health and Human Services, Integrated Healthcare [~~Health Care Financing, Coverage and Reimbursement Policy~~].**R414-502. Nursing Facility Levels of Care.****R414-502-3. Approval of Level of Care.**

(1) The Department shall document that at least two of the following factors exist when it determines whether an applicant has mental or physical conditions that require the level of care provided in a nursing facility or equivalent care provided through a Medicaid home and community-based waiver program:

(a) due to diagnosed medical conditions, the applicant requires substantial physical assistance with daily living activities above the level of verbal prompting, supervising, or setting up;

(b) the attending physician has determined that the applicant's level of dysfunction in orientation to person, place, or time requires nursing facility care, or equivalent care provided through a Medicaid home and community-based waiver program; or

(c) the medical condition and intensity of services indicate that the care needs of the applicant cannot be safely met in a less structured setting, or without the services and supports of a Medicaid home and community-based waiver program.

(2) The Department shall determine whether at least two of the factors described in Subsection (1) exist by reviewing the following clinical documentation:

(a) a current history and physical examination completed by a physician;

(b) a comprehensive resident assessment completed, coordinated, and certified by a registered nurse;

(c) a social services evaluation that meets the criteria in 42 CFR 456.370 and completed by a person licensed as a social worker, or higher degree of training and licensure;

(d) a written plan of care established by a physician;

(e) a physician's written certification that the applicant requires nursing facility placement; and

(f) documentation indicating that less restrictive alternatives or services to prevent or defer nursing facility care have been explored.

(3) If the Department finds that at least two of the factors described in Subsection (1) exist, the Department shall determine whether the applicant meets nursing facility level of care and is medically[-] approved for Medicaid reimbursement of nursing facility services or equivalent care provided through a Medicaid home and community-based waiver program. [-]Meeting medical eligibility for nursing facility services does not guarantee Medicaid payment. [-]Financial eligibility and other home and community-based waiver targeting criteria apply.

~~[-] (4) During the Coronavirus (COVID-19) public health emergency period, an individual may temporarily meet nursing facility level of care for a period of illness, if the individual:~~

~~_____ (a) is COVID-19 positive;~~

~~_____ (b) is experiencing active COVID-19 symptoms; or~~

~~_____ (c) is admitting directly from:~~

~~_____ (i) a licensed, assisted living facility;~~

~~_____ (ii) a licensed intermediate care facility for people with intellectual disabilities; or~~

~~_____ (iii) an acute care, inpatient hospital.]~~

KEY: Medicaid

Date of Last Change: ~~[October 30, 2023]~~**2025**

Notice of Continuation: May 29, 2024

Authorizing, and Implemented or Interpreted Law: 26B-1-213; 26B-3-108

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:

R414-504-3

Filing ID: 57152

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 143325	
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:
R414-504-3. Principles of Facility Case Mix Rates and Other Payments
3. Purpose of the new rule or reason for the change:
Based on a change in Centers for Medicare & Medicaid Services (CMS) policy, the Division of Integrated Healthcare (Division) determined this filing is necessary to remove provisions for the optional state assessment (OSA), as CMS will no longer allow OSAs and the Division will not need them past 06/30/2025.
4. Summary of the new rule or change:
This amendment removes provisions for the OSA as CMS will no longer allow OSAs and the Division won't need them past 06/25/2025.
It also makes style and formatting changes to comply with the Rulewriting Manual for Utah and align with other rules under the Department of Health and Human Services (Department).

Fiscal Information**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

There is no anticipated fiscal impact to the state budget as this filing removes a requirement to collect OSAs. The collection of OSAs does not affect services to facility residents nor payments to providers and ending this requirement is not anticipated to result in a change in workload or any other circumstance that would indirectly cause a fiscal impact to the Department.

B) Local governments:

There is no anticipated fiscal impact to local governments as they neither fund nor provide services under the Medicaid program.

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

There may be a small fiscal impact to small businesses, as providers are no longer required to submit OSA data. The Department, however, is neither aware of current costs to providers that complete the assessment nor whether these costs are equal among providers. The Department, therefore, cannot calculate an estimate for the fiscal impact at this time.

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

There may be a small fiscal impact to non-small businesses, as providers are no longer required to submit OSA data. The Department, however, is neither aware of current costs to providers that complete the assessment nor whether these costs are equal among providers. The Department, therefore, cannot calculate an estimate for the fiscal impact at this time.

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

There may be a small fiscal impact to other persons, as providers are no longer required to submit OSA data. The Department, however, is neither aware of current costs to providers that complete the assessment nor whether these costs are equal among providers. The Department, therefore, cannot calculate an estimate for the fiscal impact at this time.

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

While there may be a small fiscal impact to small businesses, non-small businesses, or other persons, as a provider no longer needs to submit OSA data, any compliance cost is inestimable at this time. The Department is neither aware of current costs to providers that complete the assessment nor whether these costs are equal among providers. The Department, therefore, cannot calculate a fiscal impact at this time.

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

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

Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 26B-1-213	Section 26B-3-108	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	06/17/2025

9. This rule change MAY become effective on:	06/24/2025
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:	Tracy S. Gruber, Executive Director	Date:	04/29/2025
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R414. Health and Human Services, Integrated Healthcare.**R414-504. Nursing Facility Payments.****R414-504-3. Principles of Facility Case Mix Rates and Other Payments.**

The ~~following~~ principles in this section apply to the payment of freestanding and provider-based nursing facilities for services provided to a qualified Medicaid patient[s, as defined in Rule R414-502]. [-]This rule does not affect the system for reimbursement for intensive-skilled Medicaid patient add-on amounts.

(1)(a) A portion of total payments to nursing facilities for qualified Medicaid patients is based on a prospective facility case mix rate.

(b) ~~In addition,~~ These facilities shall be paid a flat basic operating expense payment. [-]The balance of the total payments will be paid in aggregate to facilities as required by ~~Section R414-504-3~~ this section based on other authorized factors, including property and behaviorally complex residents, in the proportion that ~~the~~ each facility qualifies for the factor.

(2) Each quarter, the ~~D~~ department shall calculate a new case mix index for each nursing facility. [-]The case mix index is based on three months of MDS assessment data. [-]The ~~newly calculated~~ case mix index is applied to a new rate at the beginning of a quarter according to the following schedule:

- (a) January, February, and March MDS assessments are used for July 1 rates.
- (b) April, May, and June MDS assessments are used for October 1 rates.
- (c) July, August, and September MDS assessments are used for January 1 rates.
- (d) October, November, and December MDS assessments are used for April 1 rates.

(3) MDS ~~and optional state assessment (OSA)~~ data is used in calculating each facility's case mix index and upper payment limit ~~(UPL)~~ gap.

(a) ~~Beginning July 1, 2023, each facility must complete an OSA in conjunction with any Omnibus Budget Reconciliation Act or prospective payment system assessments. This information is required by the state to calculate the case mix index. The~~ Each facility shall submit MDS ~~and OSA~~ data ~~is submitted by each facility~~ and ~~each facility~~ is responsible for the accuracy of ~~its~~ that data.

(b) Each facility shall ensure needed sections of the MDS ~~and OSA~~ are completed so that a PDPM or resource utilization group score may be calculated.

(c) The ~~D~~ department may exclude inaccurate or incomplete MDS data from a calculation[s].

(4)(a) ~~An~~ MDS assessment[s] for a patient[s] who ~~are~~ is eligible for the intensive skilled add-on are excluded from the case mix calculation.

(b) The state average case mix index excludes ~~the following~~:

(i) a facility with less than 20% of ~~its~~ the facility's total census days as Medicaid fee-for-service paid days, as reported on ~~its~~ the facility's FCP or FRV data report; or

(ii) a facility having less than six months of data reported under Rule R414-401.

(c) The state average case mix index is used to set the rate for ~~the following facilities~~:

(i) a facility with less than 20% of ~~its~~ the facility's total census days as Medicaid fee-for-service paid days, as reported on ~~its~~ the facility's FCP or FRV data report; or

(ii) a facility having less than six months of data reported under Rule R414-401.

NOTICES OF PROPOSED RULES

(5)(a) A facility may apply for a special add-on rate for behaviorally complex residents by filing a written request with the Division of Integrated Healthcare (DIH).

(b) The [D]department may approve an add-on rate if an assessment of the acuity and needs of the patient demonstrates that the facility is not adequately reimbursed by the case mix score for that patient. The rate is added on for the specific resident's payment and is not subsumed as part of the facility case mix rate. The Office of Long-Term Services and Supports determines qualification for any additional payment.

(c) DIH shall determine the amount of any add-on.

(6) The [D]department pays any property cost[s] separately from the case mix rate.

(7) Reimbursement for a nursing home rate[s] is in accordance with Attachment 4.19-D of the Medicaid State Plan, which is incorporated by reference in Section R414-1-5.

(8)(a) A provider may challenge the rate set pursuant to this rule using the appeal in Rule R410-14. This applies to which rate methodology is used [as well as] and to the specifics of implementation of the methodology.

(b) A provider must exhaust administrative remedies before challenging rates in any other forum.

(9) The [D]department reimburses swing beds, transitional care unit beds, and small health care facility beds that are used as nursing facility beds, using the prior calendar year statewide average of the daily nursing facility rate.

(10) Unless specified otherwise, the [D]department may withhold Title XIX payments from providers if:

(a) there is a shortage in a resident trust account managed by the facility;

(b) the facility fails to submit a complete and accurate FCP, as required by Attachment 4.19-D of the Medicaid State Plan;

(c) the facility fails to submit timely[;] and accurate MDS [and OSA] data;

(d) the facility owes money to DIH because of an overpayment, nursing care facility assessment, civil money penalty, or other offset;

or

(e) the facility fails to respond within ten business days to a written request for information.

(11) The [D]department shall provide written notice before withholding any payment[s].

(12) When the [D]department rescinds withholding of a payment[s] to a provider, it will, without notice, resume payments according to the regular claims payment cycle.

(a) For ongoing operations, the [D]department shall provide notice before withholding any payment[s].

(b) The [D]department and provider may negotiate a repayment schedule acceptable to the [D]department for [monies] any money owed to the [D]department listed in Subsection R414-504-3(10).

(c) The repayment schedule may not exceed 180 days.

(b)(d) When the [D]department rescinds withholding of a payment[s] to a facility, it will resume payments according to the regular claims payment cycle.

KEY: Medicaid

Date of Last Change: [March 25, 2024]2025

Notice of Continuation: October 12, 2022

Authorizing, and Implemented or Interpreted Law: 26B-1-213; 26B-3-108

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:

R414-516

Filing ID: 57153

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 143325	
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:

R414-516. Nursing Facility Non-State Government-Owned Upper Payment Limit Quality Improvement Program

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

This amendment was deemed necessary based on internal review and consultation with the Utah Health Care Association. The purpose of this change is to update and clarify provisions for the nursing facility non-state government-owned upper payment limit quality improvement program (NSGO UPL).

4. Summary of the new rule or change:

This amendment updates and clarifies requirements of participation in the Quality Improvement program.

It also updates and clarifies exceptions and holdings that include reduced payments and a correction plan for non-compliant programs.

Additionally, it makes style and formatting changes to comply with the Rulewriting Manual for Utah and align with other rules under the Department of Health and Human Services (Department).

Fiscal Information

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

There is no anticipated fiscal impact on the state budget as non-state government-owned (NSGO) entities fund the upper payment limit (UPL) with seed money from the state that draws a federal match.

Furthermore, the changes in this rule primarily clarify existing exceptions and include a correction plan for programs that does not require any additional funding from the state.

B) Local governments:

There is no anticipated fiscal impact on local governments as non-state government-owned (NSGO) entities fund the upper payment limit (UPL) with seed money from the state that draws a federal match.

Furthermore, the changes in this rule primarily clarify existing exceptions and include a correction plan for programs. This correction plan may require a cost to a program if a program is not in compliance, but there is no way of knowing how a program would be noncompliant and what steps, if any, a program would need to take to return to compliance.

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

There is no anticipated fiscal impact on small businesses as non-state government-owned (NSGO) entities fund the upper payment limit (UPL) with seed money from the state that draws a federal match.

Furthermore, the changes in this rule primarily clarify existing exceptions and include a correction plan for programs. This correction plan may require a cost to a program if a program is not in compliance, but there is no way of knowing how a program would be noncompliant and what steps, if any, a program would need to take to return to compliance.

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

There is no anticipated fiscal impact on non-small businesses as non-state government-owned (NSGO) entities fund the upper payment limit (UPL) with seed money from the state that draws a federal match.

Furthermore, the changes in this rule primarily clarify existing exceptions and include a correction plan for programs. This correction plan may require a cost to a program if a program is not in compliance, but there is no way of knowing how a program would be noncompliant and what steps, if any, a program would need to take to return to compliance.

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 fiscal impact on other persons as non-state government-owned (NSGO) entities fund the upper payment limit (UPL) with seed money from the state that draws a federal match.

Furthermore, the changes in this rule primarily clarify existing exceptions and include a correction plan for programs.

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

There is no anticipated compliance cost for affected persons, as non-state government-owned (NSGO) entities fund the upper payment limit (UPL) with seed money from the state that draws a federal match.

Furthermore, the changes in this rule primarily clarify existing exceptions and include a correction plan for programs. This correction plan does not require any additional funding from the state but may require a cost to a program if that program is not in compliance. However, there is no way of knowing how a program would be noncompliant and what steps, if any, a program would need to take to return to compliance.

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

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

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

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information

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

Section 26B-1-213

Section 26B-3-108

Public Notice Information

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

A) Comments will be accepted until:

06/17/25

9. This rule change MAY become effective on:

06/24/2025

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:	Tracy S. Gruber, Executive Director	Date:	04/29/2025
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R414. Health and Human Services, Integrated Healthcare.**R414-516. Nursing Facility Non-State Government-Owned Upper Payment Limit Quality Improvement Program.****R414-516-1. ~~Introduction and~~ Authority and Purpose.**

(1) Sections 26B-1-213 and 26B-3-108 authorize this rule.

(2) This rule defines participation requirements for the Quality Improvement (QI) program within the Nursing Care Facility Non-State Government-Owned Upper Payment Limit (NF NSGO UPL) program. ~~[-]This rule applies only to a nursing facility provider[s] [who] that [are] is part of a contract with the [D] department to participate in the NF NSGO UPL program. [-] This rule is authorized by Sections 26B-1-213 and 26B-3-108.~~

R414-516-2. Definitions.

~~[The definitions]~~ Terms used in this rule are defined in Rule R414-505~~[- apply to this rule]~~. ~~[- The following definitions also apply.]~~ Additionally:

(1) "Certification and survey provider enhanced reports" or "~~[C]~~CASPER~~[S]~~" means a quality measure report used by the Centers for Medicare and Medicaid Services (CMS) to compare data between nursing facility programs.

(2) "Department" means the Department of Health and Human Services.

(3) "Program" means the Quality Improvement (QI) program within the ~~[Nursing Care Facility Non-State Government-Owned Upper Payment Limit]~~ (NF NSGO UPL) program.

~~[(3)]~~ (4) "Resident" means a Medicaid patient who resides in and receives nursing facility services in a Medicaid-certified nursing facility.

~~[(4)]~~ (5) "Seed contract" means a contract between the Division of Integrated Healthcare (~~[DIH]~~ division) and a non-state government entity to participate in the upper payment limit program.

~~[(5)]~~ (6) "State licensing" means the entity assigned to regulate each health care facility~~[ies]~~.

R414-516-3. Quality Improvement Program Requirements of Participation.

(1) A program is required in six of nine metrics to:

- (a) score better than the national average;
- (b) improve from the earlier state fiscal year (SFY); or
- (c) not receive a state survey deficiency of F, H, I, J, K, or L.

(2) The metrics and state survey used for the ~~[QIP]~~ program are in accordance with the ~~[- following data]~~:

- (a) CASPER percentage of long-stay residents assessed and appropriately given the seasonal influenza vaccine;
- (b) CASPER percentage of long-stay residents with a urinary tract infection;
- (c) CASPER percentage of ~~[high-risk]~~ long-stay residents with pressure ulcers;
- (d) CASPER percentage of long-stay residents experiencing ~~[one or more falls]~~ at least one fall with major injury;
- (e) CASPER percentage of long-stay residents who lose too much weight;
- (f) CASPER percentage of long-stay residents who receive an antipsychotic medication;
- (g) CASPER percentage of long-stay residents whose ability to move independently worsens;
- (h) adjusted nursing staff hours for each resident each day; and
- (i) data from the state survey without a deficiency of F, H, I, J, K, or L.

(3) If CMS modifies or removes a metric for any ~~[state fiscal year (SFY)]~~, the department shall notify ~~[the]~~ each facility~~[ies]~~ and consider the metric as achieved for those facilities.

(4) If state licensing does not conduct a survey for a program in any given SFY, ~~[then]~~ the survey requirement described in Subsection (2)(i) ~~[of this section]~~ is removed from consideration~~[;]~~ and the facility ~~[must]~~ shall meet five of eight metrics.

(5) If more than one survey is completed during the QI SFY, then ~~[all]~~ each survey~~[s]~~ ~~[are]~~ is used for the period.

~~(6)(a)~~ (a) The source of data used to calculate compliance comes from the CMS website~~[;]~~ except for data described in Subsection (2)(i), which comes from state licensing.

~~(b)~~ (b) ~~[The]~~ Any data that represents the SFY ~~[are]~~ is used for the analysis.

~~(c)~~ (c) Each program ~~[provides]~~ shall provide data to CMS for nursing hours and CASPER.

~~(d)~~ (d) ~~[The data is then made available in the subsequent SFY and downloaded by DIH.]~~ The division shall download the data for the SFY once that data becomes available, and that data shall become the sole source for the CASPER and nursing hours data.

~~(e)~~ (e) Each program shall complete and accept any data correction in the CMS interface system before the division data pull for the SFY.

~~(f)~~ (f) A program may not submit data directly to the division.

~~(7)~~ (7) ~~[DIH]~~ The division ~~[does]~~ may not require a provider that enters the NF NSGO UPL program for only part of an SFY, based on the provider participation start date, to comply with the QI requirements described in Subsection (2) in the first SFY.

R414-516-4. Exceptions and Holdings.

(1) ~~[DIH]~~ The division shall notify a program when it does not meet the requirements of Subsection R414-516-3(1)~~[;]~~ and place the program on probation during the subsequent SFY.

NOTICES OF PROPOSED RULES

- (2) Within 30 days of receiving notice, [F]the program [must]shall email to qiupl@utah.gov[;];
(a) a detailed description of why the facility did not comply with the requirements; and
(b) a corrective action plan detailing how the facility will comply in the subsequent SFY [within 30 calendar days of receiving notice, and must send a corrective action plan detailing how the facility will comply in the subsequent SFY].
(3) If the program fails to comply with Subsection R414-516-3(1) for a second consecutive SFY, [DHH]the division shall send the program a notice of failure to meet the requirements[and shall remove the program from the seed contract].
(a)(i) Within 30 days of receiving notice, [F]the program may submit [within 30 days of receiving notice,]a written request to remain in the seed contract, which contains evidence showing extraordinary circumstances that reasonably prevented the program from demonstrating compliance.
(ii) Based on the evidence, [DHH]the division may determine the program has provided sufficient documentation to meet [its]the burden of proof and waive the reduced NF NSGO UPL supplemental payment for the program[removal from the seed contract].
(b) Effective the last day of the quarter in which [DHH]the division determines non-compliance, [DHH]the division shall reduce the NF NSGO UPL supplemental payment to the program by 15% for each metric that does not meet the requirement of Subsection R414-516-3(1)[remove the program from the seed contract, and the program may not receive payments] for at least 12 months of NF NSGO UPL supplemental payments.
(c) If [DHH]the division determines the program has complied with Subsection R414-516-3(1) for an entire subsequent SFY, [DHH]the division shall [amend the seed contract and reinstate the]pay the full NF NSGO UPL supplemental amount, [program]effective the first day of the quarter after the determination is made.

KEY: Medicaid

Date of Last Change: [April 10, 2025]2025

Notice of Continuation: December 30, 2022

Authorizing, and Implemented or Interpreted Law: 26B-1-213; 26B-3-108

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:

R436-3

Filing ID: 57148

Agency Information

1. Title catchline:	Health and Human Services, Data, Systems and Evaluation, Vital Records and Statistics	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 141012	
City, state and zip:	Salt Lake City, UT 84114-1012	
Contact persons:		
Name:	Phone:	Email:
Nicole Bissonette	385-266-1543	nbissonette@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:
R436-3. Amendments and Corrections to Vital Records
3. Purpose of the new rule or reason for the change:
Upon internal review of this rule, the agency determined it is necessary to include an additional statutory authority reference. Additionally, internal discussion within the agency led the agency to determine it is unnecessary to include page numbers on birth certificate records and therefore is removing that requirement from this rule.
4. Summary of the new rule or change:
This filing adds the statutory citation for Section 26B-8-111 as an authority reference.

It clarifies that the state registrar does not require a court order to correct a scrivener's error.

Additionally, this filing removes the requirement to include page numbering at the bottom of a record.

Finally, this filing makes style and formatting changes to align this rule with other rules under the Department of Health and Human Services.

Fiscal Information

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

A) State budget:

There is no anticipated fiscal impact to the state as a result of this filing. The changes include an additional statutory authority reference and an update to clerical procedures for page numbering that does not add, remove, or modify any fiscal responsibility for the state.

B) Local governments:

There is no anticipated fiscal impact to local governments. Changes as a result of this filing do not apply to local governments.

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

There is no anticipated fiscal impact to small businesses. Changes as a result of this filing do not apply to small businesses.

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

There is no anticipated fiscal impact to non-small businesses. Changes as a result of this filing do 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**):

There is no anticipated fiscal impact to other persons as a result of this filing. The changes include an additional statutory authority reference and an update to clerical procedures for page numbering that does not add, remove, or modify any fiscal responsibility for other persons.

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

There are no anticipated compliance costs for affected persons as a result of this filing. The changes include an additional statutory authority reference and an update to clerical procedures for page numbering that does not add, remove, or modify any fiscal responsibility for affected persons.

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

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

NOTICES OF PROPOSED RULES

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

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

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis.

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

Section 26B-8-107	Section 26B-8-111	
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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:	06/17/2025
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9. This rule change MAY become effective on:	06/24/2025
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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:	04/29/2025
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R436. Health and Human Services, Data, Systems and Evaluation, Vital Records and Statistics.
R436-3. Amendments and Corrections to Vital Records.
R436-3-1. ~~Purpose and~~ Authority and Purpose.

- (1) Sections 26B-8-107 and 26B-8-111 authorize this rule.
- (2) This rule sets forth the process for correcting and amending vital records.
- ~~(2) Authority for this rule is found in Section 26B-8-107.~~

R436-3-2. Definitions.

- (1) ~~(a)~~ "Amendment to a vital record" means a change made to a field that appears on the printed birth certificate or a change, other than a scrivener's error, made a year or more after the event.
~~(b) Documentary evidence supporting the amendment may be required.~~
- (2)(a) "Correction to a vital record" means a change made to a field that does not appear on the printed birth certificate, such as birth weight or residence, or a change to information that was entered incorrectly.
(b) ~~(c)~~ Any correction[s], other than for a scrivener's error, must occur within one year of the event or before the issuance of a certificate.
~~(c) Documentary evidence supporting the correction may be required.~~
- (3)(a) "Court order" means an order from a court of competent jurisdiction; and
(b) includes a civil petition invoking the jurisdiction of a court of record.
- (4) "Delayed birth ~~(c)~~ certificate ~~of Birth~~" means the certificate from a ~~(D)~~ delayed ~~(B)~~ birth ~~(R)~~ registration as defined in Section 26B-8-108.
- (5) "Department" means the Department of Health and Human Services.
- (6) "Scrivener's error" means an error or omission made by an individual entering information into a Vital Records system or while creating a record.

R436-3-3. Role of the State Registrar.

- (1) The [S]state [R]registrar ~~will~~ shall determine if a change to a certificate item may be corrected or if an amendment is required.
- (2)(a) The [S]state [R]registrar may initiate a correction to a record if the [S]state [R]registrar becomes aware of incorrect information on a record.
(b) The [S]state [R]registrar may contact any facility or individual responsible for the original submission of data to assist in the collection of evidence of the error and correct information.

(3)(a) The [S]state [R]registrar may require documentary evidence as outlined in Section R436-3-5 to substantiate any requested correction or amendment.

(b)(i) ~~[When]~~If there is reason to doubt the validity or adequacy of the documentary evidence, the Office of Vital Records may reject the change.

(ii) If the Office of Vital Records rejects the change, the Office of Vital Records shall ~~(the change may be rejected and the applicant)~~ advise ~~[d of]~~ the applicant of the reasons for ~~[this action]~~ the rejection.

(4)(a) ~~[When]~~If the [S]state [R]registrar makes a correction, the state registrar shall make a notation recording the source of the corrected information, the date the change was made, and the identity of the authorized individual making the change ~~[shall be made]~~ on the record in such a way as to not become a part of any certificate issued.

(b) The previous information shall be preserved in the electronic or paper record for tracking and audit purposes.

(5)(a) ~~[When]~~If an amendment is made, the Office of Vital Records shall print a notation showing the record was amended ~~[shall be printed]~~ on the face of the certificate of record.

(b) The exact changes made or specifics of the amendment may be printed on further pages of the certificate ~~[, labeled with page numbers. For example, if there are two pages, the pages shall be numbered Page 1 of 2 and Page 2 of 2 to show that there is an additional page with amendments].~~

R436-3-4. Amend a Record.

[A] ~~A person requesting~~ any amendment to a vital record shall ~~[be requested by]~~ submit ~~[ting]~~ a notarized affidavit asserting that the error exists that is signed by the asserting person ~~[so asserting]~~ and one other credible person having knowledge of the facts. The affidavit ~~[will]~~ shall set forth:

- (1) information to identify the record;
- (2) ~~[the]~~ any item[s] to be amended;
- (3) the incorrect information as it appears; and
- (4) the correct information as it should appear.

R436-3-5. Documentary Evidence Required for Corrections or Amendments.

(1) With the exception of a correction[s] initiated by the [S]state [R]registrar, as outlined in Section R436-3-2, or an amendment to the medical certification, ~~[one or more]~~ at least one item[s] of documentary evidence may be required that supports ~~[the]~~ an alleged fact[s].

(2) Each document presented ~~[must]~~ shall contain sufficient information to clearly show that they pertain to the registrant on the record for which the amendment or correction has been requested.

(3) Each document ~~[must]~~ shall clearly establish ~~[the]~~ any fact[s] pertaining to the amendment sought.

(4) An acceptable document includes:

(a) a certified copy of a live birth record of the registrant's child;

(b) a certified copy of a marriage record;

(c) a copy of any official record prepared by a state or federal agency that has maintained case files on the applying individual;

(d) a federal government census record;

(e) a government agency record for benefit establishment, including social services, Medicaid, clinical services, or similar services;

(f) a passport or visa;

(g) a tax record such as a W-2 form;

~~[(b)]~~ (h) an insurance policy naming the married couple;

(i) any court order clearly establishing any fact to be amended;

(j) any medical record pertaining to the vital event;

(k) any medical treatment record, which may include official medical history, a patient information sheet, or immunization records that list birth information and show dates the patient was seen;

(l) any military record;

(m) any Social Security record;

(n) the most recent joint tax return of the married couple;

(o) the original voter registration; or

~~[(e) the most recent joint tax return of the married couple;~~

~~(d) a certified copy of the live birth record of the registrant's child;~~

~~(e) Social Security records;~~

~~(f) a passport or visa;~~

~~(g) military records;~~

~~(h) federal government census records;~~

~~(i) government agency records for benefit establishment such as social services, Medicaid, clinical services, or similar services;~~

~~(j) a copy of official records prepared by state or federal agencies that have maintained case files on the individual applying;~~

~~(k) any court order clearly establishing the facts to be amended;~~

~~(l) any medical record pertaining to the vital event;~~

~~(m) any medical treatment record which may include official medical history, patient information sheet or immunization records that list birth information and show dates the patient was seen;~~

~~(n) the original voter registration;~~

~~(o) a tax record such as a W-2 form; or~~

NOTICES OF PROPOSED RULES

- _____](p) any other document considered valid and adequate by the [S]state [R]registrar to support the requested change.
- (5) Only one document of each type listed in Subsections (4)(a) through (p) may be used in a case[s] where more than one document is required to support [the]a fact[s].
- (6) Any [D]document[s] presented [must]shall be from an independent source[s].
- (7) [F]A family document[s], such as records from bibles or personal genealogical records, [are]is not acceptable.
- (8) [D]Each document[s] [must]shall be in the form of:
- _____ (a) the original record; or
- _____ (b) a certified copy or excerpt from the original custodian of the record.
- (9) If a vital record was issued with information that was entered incorrectly, a corrected version of the vital record, as outlined in Section R436-3-2, may be issued for no additional fee if the incorrect vital record is returned to the [D]department.

R436-3-6. Amend or Correct a Live Birth Record, Stillbirth Record, or Fetal Death Record.

- (1) [S]A stillbirth record [and]or fetal death record[s] may be amended or corrected after registration.
- (2) [F]A live birth record[s] may not be amended or corrected after death, except that omission of a child's name may be amended after death within one year of birth.
- (3)(a) [The following persons]A person may apply for an amendment or correction of a live birth record, stillbirth record, or fetal death record if that person is:
- (i) the registrant, if the registrant is least 18 years [of age or over]old[-] or [person who-]has the status of emancipated minor;
- (ii) the parent[s] of the registrant, if the registrant is under 18;
- (iii) the legal guardian of the registrant; or
- (iv) the legal representative acting on behalf of the registrant.
- (b) The licensed facility, licensed provider, or health care provider responsible for submitting the report of live birth within one year of the date of the birth may also apply.
- (4) Until one year from the date of birth, [the]a child's name may be changed or added upon receipt of an affidavit signed by both parents named on the record or the legal guardian of the registrant.
- (5)(a) [A]The state registrar requires a court order [is required-]to change or amend:
- _____ (i) [the]a child's name after one year from the date of birth[-]; or
- _____ [6](ii) [A court order is required for a change to-]the child's sex or gender.
- _____ (b) The state registrar does not require a court order to correct a scrivener's error.
- _____ [7]6 A court order is required for any change to a [D]delayed [B]birth [C]certificate.
- _____ [8]7 [The]A facility of birth or midwife attending a birth may correct a date of birth[- may be corrected by the facility of birth or the midwife attending the birth].
- _____ [9]8 If the facility of birth or midwife cannot make the correction to the date of birth, the Office of Vital Records may make a correction[may be made] if [the following conditions are met]:
- (a)(i) two supporting documents are submitted demonstrating the registrant has consistently used the corrected date of birth from childhood; and
- _____ (ii) at least one of these documents [must have been]was created within seven years of the alleged date of birth; and
- _____ (b) the corrected date of birth is before the date the birth record was registered.
- _____ [10]9 [An amendment to]To amend parent information for a child under [age-]18 years old[-requires that]:
- (a) the parent whose information is being changed must sign the amendment request form;
- (b) if the parent is deceased, a death certificate [is]must be provided and another immediate family member of that parent must sign the amendment request form;
- (c) if the parents are married and the amendment request is to add the father, a marriage certificate [is]must be provided and both parents must sign the form; or
- (d) if the parents are not married, a voluntary declaration of paternity or court order establishing paternity must be submitted for the father to be added to the child's birth certificate.
- _____ [11]10 [An amendment]To amend a live birth record, stillbirth record, or fetal death record for a registrant [over age-]at least 18 years old[requires that]:
- (a) the registrant, or legal guardian, must sign as one of the witnesses on the amendment request form; and
- (b) the second witness [is]shall be an immediate family member to the registrant.
- _____ [12]11 If only one parent is listed, the second witness shall be an immediate family member of the listed parent.
- _____ [13]12(a) For a live birth record[s], [the]any document[s] submitted [must]shall have been established before the registrant's['] 18th birthday or at least ten years before the date of the application for the amendment or correction.
- _____ (b) The [S]state [R]registrar may make exceptions for other documents, [such as]including a court order[s], passport[s], or other evidence that clearly supports [the]a fact[s] of live birth.

R436-3-7. Amend or Correct a Death Record.

- (1) [F]A funeral home director[s] may [make an amendment]amend a death record through the electronic death registration system for up to one year after [the]a death.
- (2) The following persons may apply to amend or correct personal information on a death record:
- (a) the informant listed on the death record and an immediate family member of the decedent;
- (b) two immediate family members of the decedent; or

- (c) the funeral director, or person acting as ~~[such]~~ the funeral director, who submitted the information for the death ~~[certificate]~~ record.
- (3) The following persons may apply to amend or correct the marital status on a death record:
- (a) the spouse with a marriage certificate and the informant listed on the death record;
 - (b) the spouse with a marriage certificate and a witness with personal knowledge of the marriage;
 - (c) two family members with the marriage certificate or acceptable evidence of marriage;
 - (d) a family member with evidence of divorce, dissolution, death, or annulment before the death of the decedent; or
 - (e) a common-law spouse with a court order issued in a legal action indicating that the person was in a common-law marriage with the decedent at the time of the decedent's death.
- (4) Other changes to marital status and recorded surviving spouse may be made only upon a court order that determines the marital status of the decedent and identifies the surviving spouse.
- (5) If there is conflict, the ~~[S]~~ state ~~[R]~~ registrar may elect to require a court order before a change is made to the marital status.
- (6) ~~[In the case of]~~ If there are conflicting requests with no clear documentary evidence, an informant~~[s]~~ who ~~[are]~~ is in concurrence with one other witness with personal knowledge of ~~[the]~~ a fact~~[s]~~ will ~~shall~~ be considered in the following order of precedence:
- (a) a surviving spouse;
 - (b) a child, if at least 18 years ~~[or]~~ old ~~[or]~~, otherwise the legal guardian of the child;
 - (c) a parent;
 - (d) a grandparent;
 - (e) a sibling;
 - (f) an uncle or aunt;
 - (g) a nephew or niece; and
 - (h) a cousin.
- (7) ~~(a)~~ The cause of death on a death record may only be amended upon receipt of a signed statement or approved electronic notification from the medical certifier or medical examiner who originally certified the cause of death.
- (b) In the absence or inability of that physician, ~~[the following individuals]~~ an individual may request the change if that individual is:
- (a) the authorized medical associate of the original certifier;
 - (b) the chief medical officer of the institution in which the death occurred; or
 - (c) a medical examiner who assumes jurisdiction of the case ~~[provided such an individual]~~ if that medical examiner has access to the medical history of the case.
- (8) The funeral director may correct the date ~~[and]~~ or time of death.

R436-3-8. Amendment of the Same Item More Than Once.

Once an item is amended through a signed affidavit, that item may not be amended again, except upon receipt of a court order.

KEY: vital statistics, amendments, fathers, mothers

Date of Last Change: ~~[January 15,]~~ 2025

Notice of Continuation: March 20, 2023

Authorizing, and Implemented or Interpreted Law: 26B-8-107; 26B-8-111; 78B-15-302

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R477-1	Filing ID: 57138

Agency Information		
1. Title catchline:	Government Operations, Human Resource Management	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state:	Taylorsville, UT	
Mailing address:	PO Box 141531	
City, state and zip:	Taylorsville, UT 84129-2128	
Contact persons:		
Name:	Phone:	Email:
Bryan Embley	801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R477-1. Definitions
3. Purpose of the new rule or reason for the change:
This revision removes Veteran's Employment Opportunity Program from this rule to avoid conflict with Veteran's Preference in Title 71A, Chapter 2.
4. Summary of the new rule or change:
This revision removes reference to the Veteran's Employment Opportunity Program.

Fiscal Information

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

A) State budget:

These amendments are not expected to have any fiscal impact on state government revenues or expenditures because these changes are administrative in nature and do not impact budgets.

B) Local governments:

These amendments are not expected to have any fiscal impact on local governments because this rule only applies to the executive branch of state government.

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

These amendments are not expected to have any fiscal impact on small businesses because this rule only applies to the executive branch of state government.

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

These amendments are not expected to have any fiscal impact on non-small businesses because this rule only applies to the executive branch of state government.

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

These amendments are not expected to have any fiscal impact on other individuals because this rule only applies to the executive branch of state government.

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

There are no direct compliance costs for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

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

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

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

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

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

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

Section 63A-17-106	Section 63A-17-301	Section 63A-17-306
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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:	06/17/2025
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9. This rule change MAY become effective on:	07/01/2025
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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:	John Barrand, Division Director, DHRM	Date:	04/29/2025
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R477. Government Operations, Human Resource Management.**R477-1. Definitions.****R477-1-1. Definitions.**

The following definitions apply to Title R477 unless otherwise indicated within the text of each rule.

(1) "Abandonment of Position" means an act of resignation resulting when an employee is absent from work for three consecutive working days without approval.

(2) "Actual FTE" means the total number of full time equivalents based on actual hours paid in the state payroll system.

(3) "Actual Hours Worked" means time spent performing duties and responsibilities associated with the employee's job assignments.

(4) "Actual Wage" means the employee's assigned wage rate in the central personnel record maintained by the Division of Human Resource Management.

(5) "ADA" means the Americans With Disabilities Act, 42 U.S.C. 12102.

(6) "Administrative Leave" means leave with pay granted to an employee at management discretion that is not charged against the employee's leave accounts.

(7) "Administrative Adjustment" means a DHRM approved adjustment to a job or salary range that is not a Market Comparability Adjustment, a Structure Adjustment, or a Reclassification. It is for administrative purposes only. An Administrative Adjustment will result in an increase to incumbent pay only when necessary to bring salaries to the minimum of the salary range.

(8) "Administrative Salary Decrease" means a decrease in an employee's current actual wage based on non-disciplinary administrative reasons determined by an agency head.

(9) "Administrative Salary Increase" means an increase in an employee's current actual wage based on special circumstances determined by an agency head.

(10) "Agency" means an entity of state government that is:

(a) directed by an executive director, elected official, or commissioner defined in Title 67, Chapter 22, State Officer Compensation, or in other sections of the code;

(b) authorized to employ personnel; and

(c) subject to Title 63A, Chapter 17, Utah State Personnel Management Act.

NOTICES OF PROPOSED RULES

- (11) "Agency Head" means the executive director or commissioner of each agency or a designated appointee.
- (12) "Agency Human Resource Field Office" means an office of the Division of Human Resource Management located at another agency's facility.
- (13) "Alternative State Application Program (ASAP)" means a program designed to appoint a qualified person with a disability through an on the job examination period.
- (14) "Appeal" means a formal request to a higher level for reconsideration of a grievance decision.
- (15) "Appointing Authority" means the officer, board, commission, person, or group of persons authorized to make appointments in their agencies.
- (16) "Break in Service" means a point at which an individual has an official separation date and is no longer an employee of the State of Utah.
- (17) "Budgeted FTE" means the total number of full time equivalents budgeted by the Legislature and approved by the Governor.
- (18) "Career Mobility" means a temporary assignment of an employee to a different position for professional development or to fulfill specific organizational needs.
- (19) "Career Service Employee" means an employee who has successfully completed a probationary period in a career service position.
- (20) "Career Service Exempt Employee" means an employee who serves at the pleasure of the appointing authority and may be separated from state employment at any time for any reason or for no reason.
- (21) "Career Service Exempt Position" means a position in state service that is exempt from career service provisions under Section 63A-17-301.
- (22) "Career Service Status" means status granted to an employee who successfully completes a probationary period following appointment to a career service position.
- (23) "Category of Work" means a job series an agency head designates as having positions to be eliminated agency wide through a reduction in force. Category of work may be further reduced as follows:
 - (a) a unit smaller than the agency upon providing justification and rationale for approval, including:
 - (i) unit number;
 - (ii) cost centers;
 - (iii) geographic locations; or
 - (iv) agency programs.
 - (b) positions identified by a set of essential functions, including:
 - (i) position analysis data;
 - (ii) certificates;
 - (iii) licenses;
 - (iv) special qualifications; or
 - (v) degrees that are required or directly related to the position.
- (24) "Change of Workload" means a change in position responsibilities and duties or a need to eliminate or create particular positions in an agency caused by legislative action, financial circumstances, or administrative reorganization.
- (25) "Classification Grievance" means the approved procedure by which an agency or a career service employee may grieve a formal classification decision regarding the classification of a position.
- (26) "Classified Service" means positions that are subject to the classification and compensation provisions stipulated in Section 63A-17-307.
- (27) "Classification Study" means a classification review conducted by DHRM under Section R477-3-4. A study may include single or multiple job or position reviews.
- (28) "Compensatory Time" means time off that is provided to an employee in lieu of monetary overtime compensation.
- (29) "Contractor" means an individual who is contracted for service, is not supervised by a state supervisor, but is responsible for providing a specified service for a designated fee within a specified time. The contractor shall be responsible for paying any taxes and FICA payments, and may not accrue benefits.
- (30) "Critical Incident Drug or Alcohol Test" means a drug or alcohol test conducted on an employee as a result of the behavior, action, or inaction of an employee that is of such seriousness it requires an immediate intervention by management.
- (31) "Demotion" means a disciplinary action resulting in a reduction of an employee's current actual wage.
- (32) "Position Management Report" means a document that lists an agency's authorized positions, incumbent's name and hourly rate, job identification number, salary range, and schedule.
- (33) "DHRM" means the Division of Human Resource Management.
- (34) "DHRM Approved Recruitment and Selection System" means the state's recruitment and selection system, which is a centralized and automated computer system administered by the Division of Human Resource Management.
- (35) "Direct Supervisor" means an employee's primary supervisor who normally directs day to day job activity such as assigning work, approving time records, and considering leave requests.
- (36) "Disability" has the same definition found in the Americans With Disabilities Act of 1990, 42 U.S.C. 12101 (2008); Equal Employment Opportunity Commission regulation, 29 CFR 1630 (2008); including exclusions and modifications.
- (37) "Disciplinary Action" means action taken by management under Rule R477-11.
- (38) "Dismissal" means a separation from state employment for cause under Section R477-11-2.
- (39) "Dual State Employment" means an employee works for more than one agency and meets the employee criteria which is located in the Division of Finance accounting policy 11-18.00.

(40) "Drug-Free Workplace Act" means a congressional act, 41 U.S.C. Section 8101, et seq., requiring a drug-free workplace certification by state agencies that receive federal grants or contracts.

(41) "Employee Personnel Files" means the files or records maintained by DHRM and agencies as required by Section R477-2-5 for purposes of Title 67, Chapter 18, Employees' Personnel Files and Title 63A, Chapter 17, Utah State Personnel Management Act. This does not include employee information maintained by supervisors.

(42) "Employment Eligibility Verification" means a requirement of the Immigration Reform and Control Act of 1986, 8 U.S.C. 1324 that employers verify the identity and eligibility of individuals for employment in the United States.

(43) "Escalator Principle" means returning veterans are entitled to return back onto their seniority escalator at the point they would have occupied had they not left state employment under the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. 4301, et seq. (USERRA).

(44) "Excess Hours" means a category of compensable hours separate and apart from compensatory or overtime hours that accrue at straight time only when an employee's actual hours worked, plus additional hours paid, exceed an employee's normal work period.

(45) "Employee's Family Member" means an employee's relative or household member as defined in Section 52-3-1 but also including, stepsiblings, stepparents, and stepchildren.

(46) "Fitness For Duty Evaluation" means evaluation, assessment, or study by a licensed professional to determine if an individual can meet the performance or conduct standards required by the position held, or is a direct threat to the safety of self or others.

(47) "FLSA Exempt" means employees who are exempt from the overtime and minimum wage provisions of the Fair Labor Standards Act.

(48) "FLSA Non-Exempt" means employees who are not exempt from the overtime and minimum wage provisions of the Fair Labor Standards Act.

(49) "Follow Up Drug or Alcohol Test" means unannounced drug or alcohol tests conducted for up to five years on an employee who has previously tested positive or who has successfully completed a voluntary or required substance abuse treatment program.

(50) "Furlough" means a temporary leave of absence from duty without pay for budgetary reasons or lack of work.

(51) "GOPB" means Governor's Office of Planning and Budget.

(52) "Grievance" means a career service employee's claim or charge of the existence of injustice or oppression, including dismissal from employment resulting from an act, occurrence, omission, condition, discriminatory practice or unfair employment practice not including position classification or schedule assignment, or a complaint by a reporting employee as defined in Section 67-19a-101.

(53) "Grievance Procedures" means the statutory process of grievances and appeals as set forth in Title 67, Chapter 19a, Grievance Procedures, and the rules promulgated by the Career Service Review Office.

(54) "Gross Compensation" means an employee's total earnings, taxable and nontaxable, as shown on the employee's pay statement.

(55) "Highly Sensitive Position" means a position approved by DHRM that includes the performance of:

(a) safety-sensitive functions:

(i) requiring an employee to operate a commercial motor vehicle under 49 CFR 383;

(ii) directly related to law enforcement;

(iii) involving direct access or having control over direct access to controlled substances;

(iv) directly impacting the safety or welfare of the general public; or

(v) requiring an employee to carry or have access to firearms; or

(b) data sensitive functions permitting or requiring an employee to access an individual's highly sensitive, personally identifiable, private information, including:

(i) financial assets, liabilities, and account information;

(ii) social security numbers;

(iii) wage information;

(iv) medical history;

(v) public assistance benefits; or

(vi) driver license.

(56) "Hiring List" means a list of qualified and interested applicants who are eligible to be considered for appointment or conditional appointment to a specific position created in the DHRM approved recruitment and selection system.

(57) "Incompetence" means inadequacy or unsuitability in performance of assigned duties and responsibilities.

(58) "Inefficiency" means wastefulness of government resources including time, energy, money, or staff resources or failure to maintain the required level of performance.

(59) "Intern" means an individual in a college degree or certification program assigned to work in an activity where on the job training or community service experience is accepted.

(60) "Job" means a group of positions similar in duties performed, in degree of supervision exercised or required, in requirements of training, experience, or skill and other characteristics. The same salary range is applied to each position in the group.

(61) "Job Description" means a document containing the duties, distinguishing characteristics, knowledge, skills, and other requirements for a job.

(62) "Job Family" means a group of jobs that have related or common work content, that share common skills, responsibilities, and requirements, and that normally represents a general occupation area.

(63) "Job Requirements" means skill requirements defined at the job level.

NOTICES OF PROPOSED RULES

(64) "Job Series" means two or more jobs in the same functional area having the same job title, but distinguished and defined by increasingly difficult levels of skills, responsibilities, knowledge, and requirements; or two or more jobs with different titles working in the same functional area that have licensure, certification, or other requirements with increasingly difficult levels of skills, responsibilities, knowledge, and requirements.

(65) "Leave Benefit" means a benefit provided to an employee that includes: Annual leave, sick leave, converted sick leave, and holiday leave. These benefits are not provided to non-benefited employees.

(66) "Legislative Salary Adjustment" means a legislatively approved salary increase for a specific category of employees based on criteria determined by the Legislature.

(67) "Malfeasance" means intentional wrongdoing, deliberate violation of law or standard, or mismanagement of responsibilities.

(68) "Management" means the agency head and any other officers or employees who have responsibility and authority to establish, implement, and manage agency policies and programs.

(69) "Market Based Bonus" means a one-time lump sum monies given to a new hire or a current employee to encourage employment with the state.

(70) "Market Comparability Adjustment" means a legislatively approved adjustment to a salary range that is based upon salary data and other relevant information from comparable jobs in the market that is collected by DHRM or from DHRM approved justifiable sources. The Market Comparability Adjustment may also change incumbent pay resulting in a budgetary impact for an agency.

(71) "Misconduct" means wrongful, improper, unacceptable, or unlawful conduct or behavior that is inconsistent with prevailing agency practices or the best interest of the agency.

(72) "Misfeasance" means the improper or unlawful performance of an act that is lawful or proper.

(73) "Nonfeasance" means failure to perform either an official duty or legal requirement.

(74) "Performance Evaluation" means a formal, periodic evaluation of an employee's work performance.

(75) "Performance Improvement Plan" means a documented administrative action to address substandard performance of an employee under Section R477-10-2.

(76) "Performance Management" means the ongoing process of communication between the direct supervisor and the employee which defines work standards and expectations, and assesses performance leading to a formal annual performance evaluation.

(77) "Performance Plan" means a written summary of the standards and expectations required for the successful performance of each job duty or task. These standards normally include completion dates and qualitative and quantitative levels of performance expectations.

(78) "Performance Standard" means specific, measurable, observable and attainable objectives that represent the level of performance to which an employee and direct supervisor are committed during an evaluation period.

(79) "Personnel Adjudicatory Proceedings" means the informal appeals procedure contained in Title 63G, Chapter 4, Administrative Procedures Act for human resource policies and practices not covered by the state employee's grievance procedure promulgated by the Career Service Review Office, or the classification appeals procedure.

(80) "Phased Retirement" means employment on a half-time basis of a retiree with the same participating employer immediately following the retiree's retirement date where the retiree will receive a reduced retirement allowance.

(81) "Position" means a unique set of duties and responsibilities identified by DHRM authorized job and position management numbers.

(82) "Position Description" means a document that describes the detailed tasks performed, as well as the knowledge, skills, abilities, and other requirements of a specific position.

(83) "Position Identification Number" means a unique number assigned to a position for FTE management.

(84) "Post Accident Drug or Alcohol Test" means a drug or alcohol test conducted on an employee who is involved in a vehicle accident while on duty or driving a state vehicle:

(a) the employee was performing safety-sensitive functions with respect to the vehicle the employee was operating and the accident involves the loss of human life;

(b) the driver receives a citation under state or local law for a moving traffic violation arising from the accident and the accident involved:

(i) the loss of human life or bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(ii) one or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other vehicle; or

(c) where there is reasonable suspicion that the employee had been driving while under the influence of alcohol or a controlled substance.

(85) "Pre-employment Drug Test" means a drug test conducted on:

(a) final applicants who are not current employees;

(b) final candidates for a highly sensitive position;

(c) employees who are final candidates for transfer or promotion from a non-highly sensitive position to a highly sensitive position;

or

(d) employees who transfer or are promoted from one highly sensitive position to another highly sensitive position.

(86) "Probationary Employee" means an employee hired into a career service position who has not completed the required probationary period for that position.

(87) "Probationary Period" means a period for management to evaluate an employee's ability to perform assigned duties and responsibilities and to determine if career service status should be granted to the employee. The length of the period is identified at the job level and the period is considered part of the selection process.

(88) "Proficiency" means an employee's overall quality of work, productivity, skills demonstrated through work performance and other factors that relate to employee performance or conduct.

(89) "Promotion" means an action moving an employee from a position in one job to a position in another job having a higher salary range maximum.

(90) "Protected Activity" means opposition to discrimination or participation in proceedings covered by the antidiscrimination statutes or the Utah State Grievance and Appeal Procedure. Harassment based on protected activity can constitute unlawful retaliation.

(91) "Random Drug or Alcohol Test" means unannounced drug or alcohol testing of a sample of an employee in a highly sensitive position done in accordance with federal regulations or state rules, policies, and procedures, and conducted in a manner such that each highly sensitive employee has an equal chance of being selected for testing.

(92) "Reappointment" means return to work of an individual from the reappointment register after separation from employment.

(93) "Reappointment Register" means a register of individuals who have, before March 2, 2009:

(a) held career service status and been separated in a reduction in force;

(b) held career service status and accepted career service exempt positions without a break in service and were not retained, unless discharged for cause; or

(c) by Career Service Review Board decision, been placed on the reappointment register.

(94) "Reasonable Suspicion Drug or Alcohol Test" means a drug or alcohol test conducted on an employee based on specific, contemporaneous, articulated observations concerning the appearance, behavior, speech, or body odors of the employee.

(95) "Reassignment" means an action mandated by management moving an employee from one job or position to a different job or position with an equal or lesser salary range maximum for administrative reasons. A reassignment may not include a decrease in actual wage except as provided in federal or state law.

(96) "Reclassification" means a DHRM reallocation of a single position or multiple positions from one job to another job to reflect management initiated changes in duties and responsibilities.

(97) "Reduction in Force (RIF)" means abolishment of positions resulting in the termination of career service employment. RIFs can occur due to inadequate funds, a change of workload, or a lack of work.

(98) "Reemployment" means return to work of an employee who resigned or took military leave of absence from state employment to serve in the uniformed services covered under USERRA.

(99) "Salary Range" means established minimum and maximum wage rates assigned to a job.

(100) "Schedule" means the designation of a position as career service (schedule B) or career service exempt (schedule A) under Title 63A, Chapter 17, Utah State Personnel Management Act.

(101) "Separation" means an employee's voluntary or involuntary departure from state employment.

(102) "Settling Period" means a sufficient amount of time, determined by agency management, for an employee to fully assume new or higher level duties required of a position.

(103) "Structure Adjustment" means a DHRM approved adjustment to a salary range that is based upon salary data and other relevant information from comparable jobs in the market that is collected by DHRM or from DHRM approved justifiable sources.

(104) "Tangible Employment Action" means a significant change in employment status, such as dismissal, demotion, failure to promote, work reassignment, or a decision which changes benefits.

(105) "Transfer" means an action not mandated by management moving an employee from one job or position to another job or position with an equal or lesser salary range maximum for which the employee qualifies. A transfer may include a decrease in actual wage.

(106) "Uniformed Services" means the United States Army, Navy, Marine Corps, Air Force, Coast Guard; Reserve units of the Army, Navy, Marine Corps, Air Force, or Coast Guard; Army National Guard or Air National Guard; Commissioned Corps of Public Health Service, National Oceanic and Atmospheric Administration (NOAA), National Disaster Medical Systems (NDMS) and any other category of persons designated by the President in time of war or emergency. Service in uniformed services includes: voluntary or involuntary duty, including active duty; active duty for training; initial active duty for training; inactive duty training; full time National Guard duty; or absence from work for an examination to determine fitness for any of the types of duty listed in this subsection.

(107) "Unlawful Discrimination" means an action against an employee or applicant based on race, religion, national origin, color, sex, age, disability, pregnancy, sexual orientation, gender identity, protected activity under the antidiscrimination statutes, political affiliation, military status or affiliation, or any other factor, as prohibited by law.

(108) "USERRA" means the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. 4301, et seq. requires state governments to re-employ eligible veterans who resigned or took a military leave of absence from state employment to serve in the uniformed services and who return to work within a specified time period after military discharge.

(109) "Veteran" means the same as that term is defined in Section 68-3-12.5.

(110) ~~["Veteran Employment Opportunity Program (VEOP)" means a program designed to appoint a qualified veteran through an on the job examination period.~~

~~———(111)—~~ "Volunteer" means any person who donates services to the state or its subdivisions without pay or other compensation except actual and reasonable expenses incurred, as approved by the supervising agency.

(11[2]1) "Wage" means the fixed hourly rate paid to an employee.

(11[3]2) "Work Period" means the maximum number of hours an employee may work before accruing overtime or compensatory hours based on variable payroll cycles outlined in Section 63A-17-502 and 29 CFR 553.230.

KEY: personnel management, rules and procedures, definitions

Date of Last Change: 2025[July 3, 2024]

NOTICES OF PROPOSED RULES

Notice of Continuation: March 9, 2022

Authorizing, and Implemented or Interpreted Law: 63A-17-106; 63A-17-301; 63A-17-306

NOTICE OF SUBSTANTIVE CHANGE**TYPE OF FILING:** Amendment**Rule or Section Number:****R477-2****Filing ID:** 57139**Agency Information**

1. Title catchline:	Government Operations, Human Resource Management	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state:	Taylorsville, UT	
Mailing address:	PO Box 141531	
City, state and zip:	Taylorsville, UT 84129-2128	
Contact persons:		
Name:	Phone:	Email:
Bryan Embley	801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R477-2. Administration
3. Purpose of the new rule or reason for the change:
This revision clarifies the applicability of the Division of Human Resource Management (DHRM) rules.
4. Summary of the new rule or change:
This revision explicitly states that employees who are statutorily exempt from Title 63A, Chapter 17 are also exempt from DHRM Title R477 rules.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
These amendments are not expected to have any fiscal impact on state government revenues or expenditures because these changes are administrative in nature and do not impact budgets.
B) Local governments:
These amendments are not expected to have any fiscal impact on local governments because this rule only applies to the executive branch of state government.
C) Small businesses ("small business" means a business employing 1-49 persons):
These amendments are not expected to have any fiscal impact on small businesses because this rule only applies to the executive branch of state government.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
These amendments are not expected to have any fiscal impact on non-small businesses because this rule only applies to the executive branch of state government.

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

These amendments are not expected to have any fiscal impact on other individuals because this rule only applies to the executive branch of state government.

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

There are no direct compliance costs for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

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

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

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

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

Citation Information

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

Section 52-3-1	Title 63G, Chapter 2	Section 63G-5-201
Title 63G, Chapter 7	Section 63A-17-106	Section 63A-17-306
Section 63A-17-307		

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: 06/17/2025

9. This rule change MAY become effective on: 07/01/2025

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:	John Barrand, Division Director, DHRM	Date:	04/29/2025
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R477. Government Operations, Human Resource Management.**R477-2. Administration.****R477-2-1. Rules Applicability.**

Title R477 applies to the executive branch of Utah State Government and its career service and career service exempt employees. Other entities may be covered in specific sections as determined by statute. Any inclusions or exceptions to Title R477 are specifically noted in applicable sections. Entities which are not bound by mandatory compliance with Title R477 include:

- (1) members of the Legislature and legislative employees;
- (2) members of the judiciary and judicial employees;
- (3) officers, faculty, and other employees of state institutions of higher education;
- (4) officers, faculty, and other employees of the public education system, other than those directly employed by the State Board of Education;
- (5) employees of the Office of the Attorney General;
- (6) elected members of the executive branch and their Schedule A employees;
- (7) employees of independent entities, quasi-governmental agencies and special service districts; and
- (8) employees in any position that is designated by statute to be exempt from Title 63A, Chapter 17, Utah State Personnel Management Act or Title R477.

KEY: administrative responsibility, confidentiality of information, fair employment practices, public information

Date of Last Change: 2025[July 1, 2023]

Notice of Continuation: March 9, 2022

Authorizing, and Implemented or Interpreted Law: 52-3-1; 63G-2; 63G-5-201; 63G-7; 63A-17-106; 63A-17-306; 63A-17-307

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:

R477-3

Filing ID: 57140

Agency Information

1. Title catchline:	Government Operations, Human Resource Management	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state:	Taylorsville, UT	
Mailing address:	PO Box 141531	
City, state and zip:	Taylorsville, UT 84129-2128	
Contact persons:		
Name:	Phone:	Email:
Bryan Embley	801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R477-3. Classification
3. Purpose of the new rule or reason for the change:
This revision revises a notification provision to reflect updates in communication technology.
4. Summary of the new rule or change:
This revision removes the requirement to use certified mail to send notification of a decision and requires only retention of written record of notification.

Fiscal Information**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

These amendments are not expected to have any fiscal impact on state government revenues or expenditures because these changes are administrative in nature and do not impact budgets.

B) Local governments:

These amendments are not expected to have any fiscal impact on local governments because this rule only applies to the executive branch of state government.

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

These amendments are not expected to have any fiscal impact on small businesses because this rule only applies to the executive branch of state government.

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

These amendments are not expected to have any fiscal impact on non-small businesses because this rule only applies to the executive branch of state government.

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

These amendments are not expected to have any fiscal impact on other individuals because this rule only applies to the executive branch of state government.

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

There are no direct compliance costs for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

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

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

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

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

Citation Information

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

Section 63A-17-106

Section 63A-17-307

Section 63A-17-602

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:

06/17/2025

9. This rule change MAY become effective on:

07/01/2025

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:

John Barrand, Division Director, DHRM

Date:

04/29/2025

R477. Government Operations, Human Resource Management.**R477-3. Classification.****R477-3-5. Position Classification Grievances.**

(1) Under Section 63A-17-602, an agency or a career service employee may grieve formal classification decisions regarding the classification of a position.

(a) This rule refers to grievances concerning the assignment of individual positions to appropriate jobs based on duties and responsibilities. The assignment of salary ranges is not included in this rule.

(b) An employee may only grieve a formal classification decision regarding the employee's own position.

(2) DHRM shall send formal notification to grievants under this subsection and retain written record of the notification. ~~by:~~

~~(a) certified mail to the employee's address of record; and~~

~~(b) email to the employee's state email account.]~~

KEY: administrative procedures, grievances, job descriptions, position classifications**Date of Last Change:** ~~2025~~ April 28, 2023**Notice of Continuation:** March 9, 2022**Authorizing, and Implemented or Interpreted Law:** 63A-17-106; 63A-17-307; 63A-17-602

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment**Rule or Section Number:****R477-4****Filing ID:** 57141

Agency Information

1. Title catchline:

Government Operations, Human Resource Management

Building:

Taylorsville State Office Building

Street address:

4315 S 2700 W

City, state:

Taylorsville, UT

Mailing address:

PO Box 141531

City, state and zip:

Taylorsville, UT 84129-2128

Contact persons:**Name:****Phone:****Email:**

Bryan Embley

801-618-6720

bkembley@utah.gov

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

General Information**2. Rule or section catchline:**

R477-4. Filling Positions

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

This revision removes a reference to statute that causes confusion in the process.

4. Summary of the new rule or change:

This revision removes the reference to Section 67-16-7 in reference to disclosure statements because this rule covers more than just those referenced in that code section.

Fiscal Information**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

These amendments are not expected to have any fiscal impact on state government revenues or expenditures because these changes are administrative in nature and do not impact budgets.

B) Local governments:

These amendments are not expected to have any fiscal impact on local governments because this rule only applies to the executive branch of state government.

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

These amendments are not expected to have any fiscal impact on small businesses because this rule only applies to the executive branch of state government.

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

These amendments are not expected to have any fiscal impact on non-small businesses because this rule only applies to the executive branch of state government.

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

These amendments are not expected to have any fiscal impact on other individuals because this rule only applies to the executive branch of state government.

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

There are no direct compliance costs for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

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

NOTICES OF PROPOSED RULES

Fiscal Benefits	FY2025	FY2026	FY2027
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Department of Government Operations, Marvin Dodge, has reviewed and approved this regulatory impact analysis.			

Citation Information

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

Section 63A-17-106	Section 67-20-8	
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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:	06/17/2025
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9. This rule change MAY become effective on:	07/01/2025
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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:	John Barrand, Division Director, DHRM	Date:	04/29/2025
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R477. Government Operations, Human Resource Management.**R477-4. Filling Positions.****R477-4-2. Career Service Exempt Positions.**

(1) The DHRM Division Director may approve the creation and filling of career service exempt positions, as defined in Section 63A-17-301.

(2) Management shall consult with DHRM regarding the process to select an employee for a career service exempt position. Management may make appointments without competitive examination, provided job requirements are met.

(3) Appointments made on a temporary basis shall be career service exempt and:

(a) be Schedule IN, in which the employee is hired to work part time indefinitely and may not work 1,560 hours or more per fiscal year; or

(b) be Schedule TL, in which the employee is hired to work on a time limited basis.

(4) Agency management shall consult with DHRM to review possible alternative options if the required work hours of the position meet or exceed 1,560 hours per fiscal year for Schedule IN or if the position exceeds anticipated time limits for Schedule TL.

(5) Only career service exempt appointments made from a hiring list under Section R477-4-8 may be considered for conversion to career service.

(6) Management shall ensure that new hire appointees in Schedules AB, AC, AD, AR, and AS submit a disclosure statement[~~under Section 67-16-7~~] and submit to a background check.

KEY: employment, fair employment practices, hiring practices

Date of Last Change: 2025[July 1, 2023]

Notice of Continuation: March 9, 2022

Authorizing, and Implemented or Interpreted Law: 63A-17-106; 67-20-8

NOTICE OF SUBSTANTIVE CHANGE**TYPE OF FILING:** Amendment**Rule or Section Number:****R477-5****Filing ID:** 57142**Agency Information**

1. Title catchline:	Government Operations, Human Resource Management	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state:	Taylorsville, UT	
Mailing address:	PO Box 141531	
City, state and zip:	Taylorsville, UT 84129-2128	
Contact persons:		
Name:	Phone:	Email:
Bryan Embley	801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R477-5. Employee Status and Probation
3. Purpose of the new rule or reason for the change:
This revision removes Veteran's Employment Opportunity Program from the rule to avoid conflict with Veteran's Preference in Title 71A, Chapter 2.
4. Summary of the new rule or change:
This revision removes reference to the Veteran's Employment Opportunity Program.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
These amendments are not expected to have any fiscal impact on state government revenues or expenditures because these changes are administrative in nature and do not impact budgets.
B) Local governments:
These amendments are not expected to have any fiscal impact on local governments because this rule only applies to the executive branch of state government.
C) Small businesses ("small business" means a business employing 1-49 persons):
These amendments are not expected to have any fiscal impact on small businesses because this rule only applies to the executive branch of state government.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
These amendments are not expected to have any fiscal impact on non-small businesses because this rule only applies to the executive branch of state government.
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):

NOTICES OF PROPOSED RULES

These amendments are not expected to have any fiscal impact on other individuals because this rule only applies to the executive branch of state government.

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

There are no direct compliance costs for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

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

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

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

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

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

Section 63A-17-106	Subsection 63A-17-305(5)(b)	
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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:	06/17/2025
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9. This rule change MAY become effective on:	07/01/2025
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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:	John Barrand, Division Director, DHRM	Date:	04/29/2025
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R477. Government Operations, Human Resource Management.**R477-5. Employee Status and Probation.****R477-5-1. Career Service Status.**

- (1) Only an employee who is hired through a pre-approved process shall be eligible for appointment to a career service position.
- (2) An employee shall complete a probationary period before receiving career service status.
- (3) Management may convert a career service exempt employee to career service status, in a position with an equal or lower salary range, when:
- (a) the employee previously held career service status with no break in service between the last career service position held and career service exempt status;
 - (b) the employee was hired from a public hiring list to a career service exempt position, in the same job title to which they would convert, as prescribed by Section R477-4-8; or
 - (c) the employee was hired through the Alternative State Application Program (ASAP)[~~or Veterans Employment Opportunity Program (VEOP)~~] and successfully completed a six month on the job examination period.

KEY: employment, personnel management, state employees**Date of Last Change: 2025[July 1, 2023]****Notice of Continuation: March 9, 2022****Authorizing, and Implemented or Interpreted Law: 63A-17-106; 63A-17-305(5)(b)****NOTICE OF SUBSTANTIVE CHANGE****TYPE OF FILING:** Amendment**Rule or Section Number:****R477-6****Filing ID: 57143****Agency Information**

1. Title catchline:		Government Operations, Human Resource Management	
Building:		Taylorsville State Office Building	
Street address:		4315 S 2700 W	
City, state:		Taylorsville, UT	
Mailing address:		PO Box 141531	
City, state and zip:		Taylorsville, UT 84129-2128	
Contact persons:			
Name:		Phone:	Email:
Bryan Embley		801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the persons listed above.			

General Information

2. Rule or section catchline:
R477-6. Compensation
3. Purpose of the new rule or reason for the change:
This revision removes unnecessary rules, better matches with statutory provisions, and enacts SB 22 (passed in the 2025 General Session).
4. Summary of the new rule or change:
This revision removes limitations on salary and structure adjustments that have never been triggered, mirrors URS requirements for benefits eligibility, and establishes new levels for state paid life insurance for certain state employees.

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

A) State budget:

This revision could cost an estimated \$600,000 ongoing statewide for adjusted long-term disability benefits for public employees and \$900,000 ongoing statewide for increased life insurance benefits.

It could also cost an estimated \$222,000 one-time in fiscal year 2025 for the same benefits from the bill's enacting date to the end of the fiscal year. SB 22 (2025) provides intent language that the costs of these benefits will be funded through a reduction of the premium rate of the Public Employees' Long-Term Disability Trust Fund described in Section 49-21-301.

B) Local governments:

These amendments are not expected to have any fiscal impact on local governments because this rule only applies to the executive branch of state government.

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

These amendments are not expected to have any fiscal impact on small businesses because this rule only applies to the executive branch of state government.

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

These amendments are not expected to have any fiscal impact on non-small businesses because this rule only applies to the executive branch of state government.

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

These amendments are not expected to have any fiscal impact on other individuals because this rule only applies to the executive branch of state government.

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

There are no direct compliance costs for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

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	\$222,000	\$1,500,000	\$1,500,000
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	(\$222,000)	(\$1,500,000)	(\$1,500,000)

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

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

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

Section 63A-16-105	Section 63A-17-106	Subsection 63A-17-302(4)
Section 63A-17-307	Section 63A-17-803	

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:	06/17/2025
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9. This rule change MAY become effective on:	07/01/2025
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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:	John Barrand, Division Director, DHRM	Date:	04/29/2025
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R477. Government Operations, Human Resource Management.**R477-6. Compensation.****R477-6-2. Allocation to the Pay Plans for Classified Employees.**

- (1) For each job in classified service, DHRM shall:
 - (a) assign the job to a salary range and job family;
 - (b) survey the job in the market in accordance with the benchmark jobs; and
 - (c) include the job in a market comparability adjustment recommendation if warranted.
- (2) DHRM may adjust salary ranges by:
 - (a) an administrative adjustment determined appropriate by DHRM for administrative purposes that is not based on a change of duties and responsibilities, nor based on a comparison to salary data in the market;
 - (b) a structure adjustment when any agency involved agrees to resolve budgetary impacts before implementation; or
 - (c) a market comparability adjustment to a job's salary range based upon salary data and other relevant information for similar jobs in the market through an annual compensation benchmark survey or other sources.
- (i) DHRM shall include market comparability adjustment recommendations in the annual compensation plan and are submitted to the Governor.
- (ii) If a market comparability adjustment would cause a budgetary impact, DHRM may not make the adjustment unless the Legislature has approved funding for the adjustment.
- (iii) If market comparability adjustments are funded and approved for benchmark jobs, DHRM shall adjust salary ranges for other jobs in the same job family by relative ranking with the benchmark job.
- ~~[(3) DHRM may not adjust salary ranges more frequently than on an annual basis unless approved by the DHRM Division Director.]~~

R477-6-3. Compensation for Unclassified Employees Designated as Schedule AD and AR.

- (1) Pursuant to Subsection 63A-17-301(4)(d), DHRM shall assign each job with AD or AR pay plan to a salary range that is no more than 40% above and below the salary range midpoint.
- (2) DHRM may adjust salary ranges through:
 - (a) an administrative adjustment determined appropriate by DHRM for administrative purposes; or
 - (b) a structure adjustment.
- (i) DHRM shall consult with the Governor's Office of Planning and Budget (GOPB) before making structure adjustments that require legislative funding. Adjustments that impact deputy directors or issues addressed in state code require GOPB approval.
- (ii) If a structure adjustment would cause a budgetary impact, DHRM may not approve the adjustment unless the Legislature has approved funding for the adjustment or any agency involved agrees to resolve budgetary impacts before implementation.
- (iii) DHRM may include structure adjustment recommendations that require funding in the annual compensation plan.
- ~~[(iv) DHRM may not implement a structure adjustment more frequently than on an annual basis unless approved by the DHRM Division Director to address a critical need.]~~

R477-6-8. Employee Benefits.

- (1) An employee shall be eligible for:
- (a) retirement benefits according to Title 49, Utah Retirement and Insurance Benefit Act;
 - (i) DHRM shall provide eligible employees with information regarding available options for Utah Retirement Systems (URS) retirement programs; and
 - (ii) An employee shall communicate directly with URS regarding retirement system options, changes in employee contributions, beneficiaries, and investment strategies;
 - (b) non-retirement benefits when:
 - (i) in a position designated by management as eligible for benefits; and
 - (ii) in a position which normally requires working a minimum of ~~[40 hours per pay period]~~ 20 hours per workweek.
 - (2) An eligible employee shall enroll in or decline one of the traditional medical insurance plans within 30 days of the hire date and enroll in or decline one of the HSA-qualified medical insurance plans or other tax-advantaged arrangement offered by PEHP and authorized under the Internal Revenue Code for the benefit of the employee within 60 days of the hire date. An employee may change medical plans only during the annual open enrollment period for state employees or following a qualifying life event.
 - (3) An eligible employee may enroll in dental, vision, and a flexible spending account within 60 days of the hire date.
 - (4) An employee shall enroll in guaranteed issue life insurance within 60 days of the hire date to avoid having to provide proof of insurability. An employee may enroll in additional life insurance and accidental death and dismemberment insurance at any time and may be required to provide proof of insurability.
 - (5) A reemployed veteran under USERRA is entitled to the same employee benefits given to other continuously employed eligible employees to include seniority based increased pension and leave accrual.
 - (6) Any insurance coverage, excluding COBRA, shall end:
 - (a) at midnight on the last day of the pay period in which the employee receives a paycheck for employees hired before February 15, 2003; or
 - (b) at midnight on the last day of the pay period in which the employment termination date became effective for employees hired on February 15, 2003, or later.
 - (7) An employee who is not eligible for benefits under Subsection R477-6-8(1) but does meet the minimum qualifications under the Affordable Care Act shall be eligible for medical insurance only.

R477-6-10. State Paid Life Insurance.

- (1) Management shall pay term life insurance premiums for a benefits eligible career service exempt employee in schedule AA, AB, AD, AR, AT, or AX if the employee is determined eligible by the Group Insurance Office and approved through underwriting to participate in the Term Life Program offered through the Public Employees Health Plan at the following levels:
- (a) hourly wage \$24.03 or less shall receive \$125,000 of term life insurance;
 - (b) hourly wage between \$24.04 and \$28.84 shall receive \$150,000 of term life insurance; ~~and~~
 - (c) hourly wage between \$28.85 [or higher] and \$36.05 shall receive \$200,000 of term life insurance ~~[-];~~
 - ~~(d) hourly wage between \$36.06 and \$48.07 shall receive \$300,000 of term life insurance; or~~
 - (e) hourly wage of \$48.08 or higher shall receive \$400,000 of term life insurance.
- (2) The appointing authority may provide these benefits to an employee in schedule AC, AE, or AS.

KEY: wages, employee benefit plans, insurance, personnel management

Date of Last Change: 2025[July 3, 2024]

Notice of Continuation: March 9, 2022

Authorizing, and Implemented or Interpreted Law: 63A-16-105; 63A-17-106; 63A-17-302(4); 63A-17-307; 63A-17-803

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R477-7	Filing ID: 57144

Agency Information	
1. Title catchline:	Government Operations, Human Resource Management
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W
City, state:	Taylorsville, UT
Mailing address:	PO Box 141531
City, state and zip:	Taylorsville, UT 84129-2128

Contact persons:

Name:	Phone:	Email:
Bryan Embley	801-618-6720	bkembley@utah.gov

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

General Information**2. Rule or section catchline:**

R477-7. Leave

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

This revision clarifies personal preference day and jury leave and corrects a typo in the postpartum leave provisions.

4. Summary of the new rule or change:

This revision states directly that the personal preference day in Section 63G-1-301 is taken as annual leave, clarifies when and how jury leave is used, and corrects a typo.

Fiscal Information**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

These amendments are not expected to have any fiscal impact on state government revenues or expenditures because these changes are administrative in nature and do not impact budgets.

B) Local governments:

These amendments are not expected to have any fiscal impact on local governments because this rule only applies to the executive branch of state government.

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

These amendments are not expected to have any fiscal impact on small businesses because this rule only applies to the executive branch of state government.

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

These amendments are not expected to have any fiscal impact on non-small businesses because this rule only applies to the executive branch of state government.

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

These amendments are not expected to have any fiscal impact on other individuals because this rule only applies to the executive branch of state government.

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

There are no direct compliance costs for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

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

NOTICES OF PROPOSED RULES

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

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

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

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

Section 63A-17-106	Section 34-43-103	Section 39-3-1
Section 63G-1-301	Section 63A-17-504	Section 63A-17-505
Subsection 71A-8-102(3)		

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

06/17/2025

9. This rule change MAY become effective on:

07/01/2025

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:	John Barrand, Division Director, DHRM	Date:	04/29/2025
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R477. Government Operations, Human Resource Management.**R477-7. Leave.****R477-7-3. Annual Leave.**

(1) An eligible employee accrues leave based on the following years of benefits eligible state service:

- (a) less than five years -- four hours per pay period;
- (b) at least five and less than ten years -- five hours per pay period;
- (c) at least ten and less than 20 years -- six hours per pay period; or
- (d) 20 years or more -- seven hours per pay period.

(2) The following employees shall accrue seven hours of annual leave per pay period, effective from the day the employee is appointed through the duration of the appointment:

- (a) schedule AB employees;
- (b) agency deputy directors;
- (c) division directors appointed to career service exempt positions; and
- (d) an employee who is schedule A, FLSA exempt, and who has a direct reporting relationship to an executive director, deputy director, commissioner, or board.

(3) The accrual rate for an employee rehired to a position which receives leave benefits shall be based on any eligible employment in which the employee accrued leave.

(4) ~~[The first eight hours of annual leave used by an employee in the calendar leave year shall be the employee's personal preference day.] An employee's personal preference day under Subsection 63G-1-301(1)(d) is taken as annual leave, subject to all annual leave procedures.~~

(5) Management may not restrict the use of annual leave used in a calendar year to less than the amount the employee accrues in the year.

(6) An employee forfeits unused accrued annual leave time exceeding 320 hours during year end processing for each calendar year unless the DHRM Division Director authorizes an extension to this timeframe for a specific number of hours.

(7) An agency may payout an employee's annual leave hours under conditions not connected with separation from employment with authorization from the DHRM Division Director and GOPB.

R477-7-8. ~~[Witness and]~~ Jury Leave.

(1) An employee is entitled to a leave of absence from a regularly scheduled work day with full pay when ~~[, in obedience to a subpoena or direction by proper authority, the employee shall]~~ answering a jury summons or serving on a jury and may choose:

~~[(a) appear as a witness as part of the employee's position for the federal government, the State of Utah, or a political subdivision of the state;~~

~~[(b) serve as a witness in a grievance hearing under Section 63A-17-602 and Title 67, Chapter 19a, Grievance Procedures; or~~

~~[(c) serve on a jury.]~~

~~[(a) to use their own accrued leave and keep juror's fees; or~~

~~[(b) to use jury leave and return any juror's fee to agency finance or agency payroll staff for deposit with the State Treasurer.]~~

(2) An employee on jury leave may accrue excess hours in the same pay period during which the jury leave is used.

~~[(3) An employee choosing to use accrued leave while on jury duty may keep juror's fees;~~

~~[(4) An employee who chooses to take a leave of absence from a regularly scheduled work day with full pay while on jury duty shall return any juror's fee to agency finance or agency payroll staff for deposit with the State Treasurer.]~~

(3) An employee who participates in a court or administrative proceeding in any capacity as part of the employee's position, in obedience to a subpoena, under direction by proper authority, or as directed by management, shall record such time as work time and may not use jury leave.

~~[(5)]~~ (4) An employee may not use work time or ~~[witness and]~~ jury leave when absent to litigate matters unrelated to state employment.

R477-7-20. Parental and Postpartum Recovery Leave.

(1) An employee is eligible for parental or postpartum recovery leave when the employee:

(a) is eligible for benefits under Subsections R477-6-8(1) and R477-7-1(1);

(b) is not reemployed post retirement as defined in Section 49-11-1202; and

(c) is not an employee of an independent entity as defined in Section 63E-1-102.

(2) An employee or a spokesperson shall notify management of their plan to use parental or postpartum recovery leave:

(a) thirty days in advance; or

(b) as soon as practicable in emergencies.

(3) Management may not charge parental or postpartum recovery leave against any accrued leave balance on the employee's record.

(4) Excess leave may be paid out as necessary to comply with this section.

(5) No person may interfere with an employee's intent to use parental or postpartum recovery leave or retaliate against an employee who receives parental or postpartum recovery leave.

(6) Parental leave is administered as follows:

(a) An employee is qualified for parental leave when the employee is assuming a parental role for a child or incapacitated adult and:

(i) is the child's biological parent;

(ii) is the spouse of the person who gave birth to the child;

(iii) is the adoptive parent of the child, unless the employee is the spouse of the pre-existing parent;

(iv) is the intended parent of a child born under a valid ~~[ated]~~ gestational agreement;

(v) is appointed the legal guardian of a child or incapacitated adult; or

(vi) is the foster parent of the child;

(b) Management shall grant up to three weeks of paid parental leave to an employee who gives notice that they intend to use paid parental leave;

(c) Management calculates the amount of leave for each employee based on the number of hours the employee would have worked per week if they had not taken parental leave.

(d) An employee may use parental leave within the six months immediately following the qualifying event from Subsection (6)(a); and

(e) An employee may use parental leave intermittently when:

(i) the employee and management have written mutual consent for intermittent use; or

(ii) a health care provider certifies the need for intermittent leave due to the child's serious health condition.

(f) Parental leave:

(i) runs concurrently with leave under the FMLA;

(ii) runs consecutively with postpartum recovery leave pursuant to Subsection (6)(f)(ii);

(iii) is limited to three weeks within any 12-month period;

NOTICES OF PROPOSED RULES

- (iv) does not increase when:
 - (A) more than one child is born from the same pregnancy;
 - (B) more than one child is adopted;
 - (C) the employee is appointed legal guardian of more than one minor child or incapacitated adult; or
 - (D) more than one foster child is placed in the employee's care.
- (7) Postpartum recovery leave is administered as follows:
 - (a) An employee is qualified for postpartum recovery leave when the employee gives birth at 20 weeks or greater gestation;
 - (b) Management shall grant up to three weeks of paid postpartum recovery leave to an employee who gives notice that they intend to use paid postpartum recovery leave;
 - (c) Management calculates the amount of leave for each employee based on the number of hours the employee would have worked per week if they had not taken postpartum recovery leave;
 - (d) Postpartum recovery leave begins on the date the employee gives birth unless a health care provider certifies the medical necessity of an earlier start date;
 - (e) An employee shall use postpartum recovery leave in a single continuous period, unless otherwise authorized in writing by the director of the division; and
 - (f) Postpartum recovery leave:
 - (i) runs concurrently with leave under the FMLA;
 - (ii) runs consecutively with parental leave under Subsection (6) with postpartum recovery leave used first pursuant to restrictions in Subsection (d); and
 - (iii) does not increase when more than one child is born from the same pregnancy.

KEY: holidays, leave benefits, vacations

Date of Last Change: ~~January 9,~~ 2025

Notice of Continuation: March 9, 2022

Authorizing, and Implemented or Interpreted Law: 34-43-103; 39-3-1; 63G-1-301; 63A-17-106; 63A-17-504; 63A-17-505; 71A-8-102(3)

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:

R477-10

Filing ID: 57145

Agency Information

1. Title catchline:		Government Operations, Human Resource Management	
Building:		Taylorsville State Office Building	
Street address:		4315 S 2700 W	
City, state:		Taylorsville, UT	
Mailing address:		PO Box 141531	
City, state and zip:		Taylorsville, UT 84129-2128	
Contact persons:			
Name:		Phone:	Email:
Bryan Embley		801-618-6720	bkembley@utah.gov
Please address questions regarding information on this notice to the persons listed above.			

General Information

2. Rule or section catchline:
R477-10. Employee Development
3. Purpose of the new rule or reason for the change:
This filing is meant to remove Utah Performance Management (UPM) from the rules as the platform is being replaced.
4. Summary of the new rule or change:
This revision removes Utah Performance Management from this rule and states that agencies must use a performance management system approved by the Division of Human Resource Management (DHRM).

Fiscal Information**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

These amendments are not expected to have any fiscal impact on state government revenues or expenditures because these changes are administrative in nature and do not impact budgets.

B) Local governments:

These amendments are not expected to have any fiscal impact on local governments because this rule only applies to the executive branch of state government.

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

These amendments are not expected to have any fiscal impact on small businesses because this rule only applies to the executive branch of state government.

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

These amendments are not expected to have any fiscal impact on non-small businesses because this rule only applies to the executive branch of state government.

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

These amendments are not expected to have any fiscal impact on other individuals because this rule only applies to the executive branch of state government.

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

There are no direct compliance costs for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

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

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

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

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

Citation Information

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

Section 63A-17-106

Section 63A-17-112

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:

06/17/2025

9. This rule change MAY become effective on:

07/01/2025

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:

John Barrand, Division Director, DHRM

Date:

04/29/2025

R477. Government Operations, Human Resource Management.**R477-10. Employee Development.****R477-10-1. Performance Evaluation.**

Management shall utilize the [Utah Performance Management (UPM)] DHRM approved system for employee performance plans and evaluations unless an alternate system has been pre-approved by DHRM.

(1) Management shall establish a performance management system that:

(a) defines an overall performance rating scale;

(b) identifies performance standards and expectations for each employee in a performance plan; and

(c) implements a well-defined plan before work begins that includes:

(i) incentives to meet or exceed expectations;

(ii) specific standards, goals, or expectations; and

(iii) evaluation procedures.

(2) Management shall notify employees when their performance plans are implemented or modified.

(3) Management shall evaluate an employee's performance in writing at least quarterly.

(a) An employee may include written comments pertaining to the employee's performance evaluation.

(b) Management may issue a written performance evaluation to a probationary employee at the end of the probationary period.

(4) Management shall provide employees with regular verbal and written feedback based on the standards of performance and behavior outlined in their performance plans.

KEY: educational tuition, employee performance evaluations, employee productivity, training programs

Date of Last Change: 2025~~July 3, 2024~~

Notice of Continuation: March 9, 2022

Authorizing, and Implemented or Interpreted Law: 63A-17-106

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment**Rule or Section Number:**

R477-15

Filing ID: 57146

Agency Information

1. Title catchline:

Government Operations, Human Resource Management

Building:

Taylorsville State Office Building

Street address:

4315 S 2700 W

City, state:

Taylorsville, UT

Mailing address:

PO Box 141531

City, state and zip:

Taylorsville, UT 84129-2128

Contact persons:

Name:	Phone:	Email:
Bryan Embley	801-618-6720	bkembley@utah.gov

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

General Information**2. Rule or section catchline:**

R477-15. Workplace Harassment Prevention

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

This agency is submitting this revision for clarity and ease of use.

4. Summary of the new rule or change:

This revision reorganizes the elements of workplace harassment and discrimination for clarity to employees regarding workplace behavior and for investigators or managers tasked with policy enforcement.

Fiscal Information**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

These amendments are not expected to have any fiscal impact on state government revenues or expenditures because these changes are administrative in nature and do not impact budgets.

B) Local governments:

These amendments are not expected to have any fiscal impact on local governments because this rule only applies to the executive branch of state government.

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

These amendments are not expected to have any fiscal impact on small businesses because this rule only applies to the executive branch of state government.

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

These amendments are not expected to have any fiscal impact on non-small businesses because this rule only applies to the executive branch of state government.

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

These amendments are not expected to have any fiscal impact on other individuals because this rule only applies to the executive branch of state government.

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

There are no direct compliance costs for these amendments. This rule only affects the executive branch of state government and will have no impact on other persons. This rule has no financial impact on state employees.

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

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

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

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

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

Section 63A-17-106	Section 63A-17-306	Section 63G-2-305
E.O. No. 2019-1 "Prohibiting Unlawful Workplace Harassment, Discrimination, and Retaliation and Ordering a Mandatory Supervisor Training Program"		

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:**

06/17/2025

9. This rule change MAY become effective on:

07/01/2025

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:	John Barrand, Division Director, DHRM	Date:	04/29/2025
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R477. Government Operations, Human Resource Management.**R477-15. Workplace Harassment Prevention.****R477-15-1. Policy.**

It is the policy of this state to provide a work environment free from discrimination and harassment based on [~~race, religion, national origin, color, sex, age, disability, pregnancy, sexual orientation, gender identity, or~~] protected class or activity [~~or class under state or federal law~~]. This policy [~~seeks to~~] regulates behaviors that are harassing, discriminatory, or retaliatory regardless of whether the behavior would constitute a violation of applicable state or federal laws.

(1) Workplace harassment [~~includes the following subtypes~~] occurs when conduct:

(a) is based on race, religion, national origin, color, sex, age, disability, pregnancy, sexual orientation, gender identity, or protected activity or class under state or federal law;

(b) [~~conduct in violation of Section R477-15-1 that~~] is unwelcome, pervasive, demeaning, ridiculing, derisive, or coercive; [~~and~~]

(c) results in a hostile, offensive, or intimidating work environment. [~~or~~]

[~~— (b) conduct in violation of Section R477-15-1 that results in a tangible employment action against the harassed employee.~~]

(2) Discrimination occurs when a tangible employment action is taken against an employee because of any characteristic or activity listed in Subsection R477-15-1(1)(a).

(3) Management may discipline an employee for violating workplace policies, even if:

(a) the conduct occurs outside of scheduled work time or work location; or

(b) the conduct is not sufficiently severe to constitute a violation of law.

([3]4) Once a complaint has been filed, the accused may not communicate with the complainant regarding allegations of harassment.

KEY: administrative procedures, hostile work environment

Date of Last Change: ~~2025~~~~July 1, 2023~~

Notice of Continuation: March 9, 2022

Authorizing, and Implemented or Interpreted Law: 63A-17-106; 63A-17-306; 63G-2-305; E.O. No. 2019-1 "Prohibiting Unlawful Workplace Harassment, Discrimination, and Retaliation and Ordering a Mandatory Supervisor Training Program"

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:

R501-12

Filing ID: 57159

Agency Information

1. Title catchline:	Health and Human Services, Human Services Program Licensing	
Building:	Multi-Agency State Office Building	
Street address:	195 N 1950 W	
City, state	Salt Lake City, UT	
Mailing address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	Phone:	Email:
Janice Weinman	385-321-5586	jweinman@utah.gov
Mariah Noble	385-214-1150	mariahmoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R501-12. Foster Care Services
3. Purpose of the new rule or reason for the change:
Upon internal review, the Division of Licensing and Background Checks determined it is necessary to clarify language describing requirements for the bedroom of a foster child.
4. Summary of the new rule or change:
This amendment clarifies language in Subsections R501-12-7(2)(j) and (k) because, as currently effective, this rule does not specify the requirement for screened windows in foster bedrooms above ground level, which was determined to be a risk to foster child health and safety.
Additionally, the word "floor" is changed to "level" in Subsection R501-12-8(3)(g) to match wording throughout the rest of the rule.
Other nonsubstantive changes are made to comply with the Rulewriting Manual for Utah.

Fiscal Information

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

A) State budget:

This filing is not anticipated to result in a cost or savings to the state budget, as these changes do not add to, modify, or remove processes or requirements for licensure conduct inspections.

B) Local governments:

Local governments do not have any interaction with the regulatory requirements of DLBC-licensed foster parents, therefore this rule change will have no cost or savings impact on local governments.

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

Foster parents are not considered small business, as they provide care for up to four foster children at a time in their own homes. They are considered other persons, and therefore, this filing does not apply to or have a fiscal impact on small businesses.

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

Foster parents are not considered non-small business, as they provide care for up to four foster children at a time in their own homes. They are considered other persons, and therefore, this filing does not apply to or have a fiscal impact on non-small businesses.

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

This filing may have an inestimable fiscal impact on foster parents who need to provide screens in upper floor windows and ensure pools and fall hazards are mitigated with protective barriers. Since this rule already required these items, the costs are expected to be nominal for obtaining screens in upper-level windows. These costs are inestimable due to the varied environments of each foster home and because there is no data on how many windows may need a screen as a direct result of this change.

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

There is an inestimable compliance cost per foster home that is currently out of compliance with the changes in this filing. This cost is inestimable due to the varied environments of each foster home and because there is no data on how many windows in a single foster home may need a screen as a direct result of this change.

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

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

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

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis.

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

Section 26B-2-104		
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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:	06/17/2025
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9. This rule change MAY become effective on:	06/24/2025
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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:	04/30/2025
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R501. Health and Human Services, Human Services Program Licensing.**R501-12. Foster Care Services.****R501-12-1. Authority and Purpose.**

(1) This rule is authorized by Section 26B-2-104.

(2)(a) This rule establishes standards for the licensure of foster parents for children in the custody of the Department of Health and Human Services.

(b) This rule establishes standards for child-placing foster care agencies to utilize in the certification of foster parents to provide foster care.

(c) This rule establishes compliance standards for licensed and certified foster parents.

(d) This rule supplements Rules R501-1, R380-80, and R380-600 that apply to foster care services.

R501-12-2. Definitions.

Terms used in this rule are defined in Rules R380-600 and R501-1. Additionally:

(1) "Agency" means any owner, director, manager, and staff of a child-placing foster care agency licensed by OL to certify foster parents.

(2) "Child" means an individual under 18 years old.

(3) "Child care" is defined in Section 26B-2-401.

(4)(a) "Certified" means a family approved by a child-placing foster care agency who meets each requirement in this rule and is issued a certification that is equivalent to a foster care license issued by OL.

(b) A certified family under this rule does not mean a home certified by OL for providing unlicensed services to a Division of Services for People with Disabilities client.

(5) "Custodial agency" means the agency or entity that maintains legal custody of the foster child.

(6) "DCFS" means the Division of Child and Family Services under the department.

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

(8) "Direct access" is defined in Section 26B-2-101.

(9) "Eligible" means an OBP background check determination of direct access qualified in accordance with Section 26B-2-120.

(10) "Foster care" means the temporary provision of family-based care for a foster child by a foster parent.

(11) "Foster child" means a person under 21 years of age who remains subject to the continuing jurisdiction of the juvenile court or whose placement in the home was facilitated by a custodial agency or division of the department.

(12) "Foster parent" means a substitute parent licensed by OL and includes the spouse of the primary applicant.

(13) "General, common use, household items" means:

(a) air fresheners and deodorizers;

(b) cleaning wipes;

(c) cutlery;

(d) facial and skin hygiene products;

(e) hair and cosmetic products;

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- (f) laundry and dish detergent, excluding concentrated pods;
 - (g) laundry stain remover;
 - (h) nail polish remover;
 - (i) oral hygiene products;
 - (j) propane attached to a grill;
 - (k) rubbing alcohol; and
 - (l) spray furniture polish.
- (14) "Hazardous material" means any substance that if ingested, inhaled, ignited, used, or touched may cause significant injury, illness, or death. [-]These substances include:
- (a) ammonia, including ammonia-based cleansers;
 - (b) automotive fluids;
 - (c) bleach, including bleach-based cleansers;
 - (d) chemical drain openers;
 - (e) cleaning aerosols;
 - (f) compressed air;
 - (g) concentrated detergent capsules;
 - (h) gasoline;
 - (i) hair relaxers or permanents;
 - (j) kerosene;
 - (k) lighter fluid;
 - (l) lighters;
 - (m) matches;
 - (n) medications;
 - (o) oven cleaners;
 - (p) paint thinner;
 - (q) pesticides;
 - (r) spray paint; and
 - (s) toxic glues.
- (15) "Home study" means a written assessment of an applicant's ability to:
- (a) actively engage in achieving the custodial agency's identified outcomes for a foster child;
 - (b) comply with applicable statutes and rules related to providing foster care; and
 - (c) meet the physical and emotional needs of a foster child.
- (16) "Human services program" is defined in Section 26B-2-101.
- (17) "Immediate family member" is defined in Subsection 80-3-102(5).
- (18) "Incidental care" is defined in Section 26B-2-120.
- (19) "Material change" is defined in Subsection 26B-2-107(1) and includes the following changes that may affect a foster child's well-being:
- (a) a critical incident as defined in Rule R380-600;
 - (b) a youth turning 18 years old, who resides in the home, except a foster child; and
 - (c) an upcoming adoption.
- (20) "Medication" means any over-the-counter or prescription drug, vitamin, or supplement in any form.
- (21) "OBP" means the Office of Background Processing within the Division of Licensing and Background Checks under the department.
- (22) "OL" means the Office of Licensing within the Division of Licensing and Background Checks under the department.
- (23) "OL or the agency" means OL when the foster parent is licensed by OL or the agency when the foster parent is certified by a child-placing foster agency.
- (24) "Poverty guidelines" means the US Department of Health and Human Services listing of poverty levels as determined by the number of members of a family.
- (25) "Preserving connection" means an individual with a relationship to a foster child that is identified with the purpose of maintaining or strengthening that relationship and connection, as approved in writing in the department client record.
- (26) "Provider" means an OL-licensed foster parent or the agency responsible for certifying its own foster parents.
- (27) "Relative" is as defined in Subsection 80-3-102(6).
- (28) "Reside" means visiting or living in the foster home for any cumulative 14 days of the past 12 months.
- (29)(a) "Respite care" means the short-term provision of family based care for a foster child by a foster parent to provide relief to another parent.
- (b) Respite care does not include preserving connection, if the identified individual is specifically named, along with any contact allowances or parameters in the department client record.
- (30) "Reasonable temperature" means between 65 and 82 degrees Fahrenheit.
- (31) "Short-term relief care provider" is defined in Section 26B-2-101.
- (32) "Siblings" means children with a common parent or grandparent, regardless of whether their legal relationship has been severed, including biological siblings, half-siblings, step-siblings, adopted siblings, and cousins.

(33) "Sick" means to have a fever, to be experiencing ongoing or severe diarrhea, unexplained lethargy, respiratory distress, ongoing or severe vomiting, or pain or other symptoms that are ongoing or severe enough to impair a child's ability to participate in normal activity.

R501-12-3. Initial Application, Renewal, and Reapplication Process.

- (1) An individual or legally married couple age 18 or over may apply for licensure or certification to be a foster parent.
- (2)(a) The foster parent applicant for licensure shall apply by completing a form in the online provider portal.
- (b) The foster parent applicant for certification shall complete the initial application template form found on the OL website and submit that application form to the child-placing foster care agency from which they wish to receive certification.
- (3) OL or the agency may consider poverty guidelines when evaluating the dependence of the foster parent on foster payments for their own expenses.
- (4) OL or the agency may require supporting documentation of household income and expenses to verify the foster parent or foster parent applicant is financially stable and will not be dependent on foster care reimbursement.
- (5) The foster parent applicant shall provide verification of successful completion of DCFS or agency approved pre-service training within the past 24 months.
- (6) The foster parent applicant shall provide verification of current cardiopulmonary resuscitation (CPR) and first aid training. Accepted training includes:
 - (a) Family and Friends CPR, provided through the American Heart Association;
 - (b) Heartsaver, provided through the American Heart Association; and
 - (c) courses provided through the American Red Cross.
- (7) The foster parent applicant shall authorize a licensed health care professional to complete a physical exam within the previous 12 months and send a signed medical reference report directly to OL or the agency. A medical reference report shall assess the current ability of the individual to be a foster parent.
- (8)(a)(i) If required by OL or the agency to assess mental health status, the foster parent or foster parent applicant shall complete a professional mental health examination.
- (ii) OL or the agency shall determine the type of professional mental health examination required based on the nature of the presenting concerns.
- (b) OL or the agency administration shall collaborate with a clinical professional to make the determination of need and type of examination required.
- (c) The foster parent or foster parent applicant shall authorize the release of examination information to OL or the agency, including a signed report that assesses the ability of the individual to parent a vulnerable foster child full time as a foster parent.
- (d) The foster parent or foster parent applicant shall pay for any requested medical or mental health examination.
- (e) OL or the agency may, in the exercise of their professional assessment, deny, suspend, place conditions on, or revoke an application, certification, or license if a medical reference report or other examination reveals reasonable concerns regarding an applicant's ability to provide foster care services, or if the required examination is not completed and provided to OL or the agency.
- (9)(a) Upon initial application, or as requested thereafter, the foster parent applicant shall submit the name, mailing address, email address, and phone number of no more than four individuals as referents, who OL or the agency shall contact to provide a reference letter.
- (b) If there is more than one individual listed on the foster parent application, the referent may address each individual in the same reference.
- (c) The foster parent applicant shall select referents who are knowledgeable regarding the ability of the applicant to provide a safe environment and to nurture foster children.
- (d) The foster parent applicant shall select one referent that is a relative of the applicant and three non-relatives.
- (e) OL or the agency shall only consider the four original referents submitted.
- (f) A minimum of three out of the four individuals, including one relative and two non-relatives, shall submit reference letters directly to OL or the agency. Except as provided in Subsection R501-12-15(3), OL or the agency shall require a minimum of three reference letters received that are acceptable to OL or the agency.
- (g) OL or the agency may, in the exercise of their professional assessment, deny an application if a reference reveals reasonable concern regarding an applicant's ability to provide foster care services.
- (10)(a) The foster parent applicant and each person 12 years of age or older residing in the home shall submit a background check application as part of the initial application.
- (b) A background check application is also required for any new individual over the age of 12 who moves into the home.
- (c) OL or the agency may not license or certify a foster parent unless the background check of each person 12 years of age or older that resides in the home is deemed eligible by OBP in compliance with Section 26B-2-120 and Rule R501-14.
- (d) The foster parent may not permit any person without an eligible background check to have unsupervised direct access to a foster child unless:
 - (i) the person is a provider of incidental care; or
 - (ii) the person's access is driven by child-centered normalcy needs that are guided by reasonable and prudent parenting as described in Section 80-2-308, and is not a foster parent-centered delegation of parental responsibility.
- (e) The foster parent shall immediately notify OBP if any person in the home is charged with, or under investigation for, any criminal offense or allegation of abuse, neglect, or exploitation of any child or vulnerable adult.
- (f) A pending Child Protective Services, Adult Protective Services or law enforcement investigation of any person in the home may result in a conditional or suspended license or certification until resolved to the satisfaction of OL.

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(g) In accordance with Section 80-2-1001, OBP shall review and evaluate information from the DCFS management information system for licensing and monitoring individuals who reside in the foster home. When, in the professional assessment of OL, a supported or substantiated finding against any individual who resides in the foster home may pose a risk of harm to a foster child, OL may issue a safety plan, place parameters on the license, or issue a notice of agency action to the foster parent or agency.

(11) After completing the required background checks, OL or the agency must conduct a home study before any placement is made in the home.

(a) If the home study is being conducted for adoptive purposes, an adoption service provider, as defined in Section 78B-6-103, shall complete the home study.

(b) If the home study is not being conducted for adoptive purposes, the home study may be conducted by an individual who:

(i) is an adoption service provider; or

(ii) is employed or contracted to conduct a home study for an agency licensed by OL and who has participated in the recruiting, hiring, training, and supervising of proctor foster homes for at least a year.

(c) OL or the agency must complete the home study document on the OL-approved home study document template, that is found on the OL website, before an applicant is licensed or certified to take foster placements.

(12)(a) The foster parent who wishes to remain licensed or certified to provide foster care services must submit a renewal application before the license or certification expiration.

(b) Each applicant requesting a license or certification renewal shall complete the renewal application form located on the OL website.

(c) OL or the agency may require supporting documentation of household income and expenses to verify the foster parent will not be dependent on foster care reimbursement.

(d) OL or the agency shall update the home study in-writing annually after a home visit and safety inspection as a means to assess the family's experience over the past year as a foster family to include:

(i) any changes to required home study information;

(ii) interviews with any members of the home; and

(iii) references or other requested information needed to update the home study.

(13) A previously licensed or certified foster parent is subject to the same requirements as an initial application, with the following additional requirements:

(a) each applicant shall disclose previous foster care licenses and certifications, including those outside of Utah;

(b) each previously licensed applicant shall request a written reference from the custodial agency where they last held a foster care license to be sent directly to OL or the agency;

(c) each previously certified applicant shall request a written reference letter from the last agency where they were certified, and each agency they have been certified by within the past three years, to be sent directly to OL or the agency; and

(d) each applicant shall sign a release of information for any agency where the foster parent previously provided certified or licensed foster care.

(14)(a) Reapplication of previously licensed or certified applicants may utilize an update of the previous home study if the home study was created by the same agency currently relicensing or recertifying the home.

(b) OL or the agency may add an update to the existing home study from another agency if the agency provides it directly and it is completed on an OL-approved home study addendum template found on the OL website that addresses and updates general foster parent requirements. The update may reference applicable portions of the original study as an attachment.

(c) OL or the agency may request new reference letters or additional information if needed to update the home study.

(d) The reference letter requirement is waived if 12 months or less have passed since the lapse of any license or certification.

(e) A personal health statement is still required, but a physician's statement is waived if 12 months or less have passed since lapse of any license or certification.

(f) Initial training requirements are waived, as long as there is not a change of the licensing or certifying agency if 24 months or less have passed since lapse of any license or certification.

(g) A change in agency shall require new initial training.

(15)(a) OL or the agency shall base the decision to approve or deny the applicant to provide foster services on the facts, health and safety factors, and the professional assessment of OL or the agency.

(b) OL or the agency may not deny a person a foster care license or certification on a basis that violates any applicable federal or state anti-discrimination law.

(c) The approval of a license or certification is not a guarantee that a foster child will be placed or retained in the foster parent's home.

(d) Except for a kinship parent or short-term relief care provider, a foster parent may not be licensed or certified to provide foster or respite care services in the same home where they provide child care for five or more children or another licensed or certified department program.

(e) To promote health and safety, OL or the agency may issue a license or certification that includes additional restrictions unique to the circumstances of the license.

(f) If a license or certification is denied, an applicant may not reapply for a minimum of 90 days from the date of denial.

R501-12-4. Three-Year Licenses.

(1)(a) This section supersedes Subsections R380-600-3(16), (18), and (19) in accordance with Subsection 26B-2-105(5)(d).

(b) This section does not apply to a child-placing foster care agency or foster homes certified under a child-placing foster care license.

- (2)(a) A foster parent who has remained continually licensed by OL for any two or more consecutive years, with no penalties or notations of noncompliance during that period, shall receive a renewal license that expires three years following the renewal license start date.
- (b) A foster parent with a three-year license remains subject to:
- (i) ongoing background checks and approvals and denials, as outlined in Section 26B-2-120; and
 - (ii) the requirement to submit annual update information to ensure OL has accurate information regarding the home and family members.
- (c) In accordance with Subsection 26B-2-107(3), an announced or unannounced on-site inspection may not be conducted by OL for any foster parent with a three-year license, unless:
- (i) the office is made aware of any safety concerns in the home requiring an on-site visit from OL;
 - (ii) the licensee has not had any placements for more than 12 consecutive months and seeks to take a new placement; or
 - (iii) as necessary to monitor a material change.
- (3) If the foster parent with a three-year license receives a new notation of noncompliance, OL shall revert to the annual license requirements that maintains the same expiration day and month for a one-year license.
- (4) The foster parent may not allow any person without an OBP eligible background check to have unsupervised direct access to a foster child unless:
- (i) the person is a provider of incidental care;
 - (ii) the person is identified in the foster child's department record as an individual for preserving connection;
 - (iii) the person is a resident living in the home of a short-term relief care provider that maintains supervision of the resident in the presence of a foster child; or
 - (iv) the person's access is driven by child-centered normalcy needs that are guided by reasonable and prudent parenting as described in Section 80-2-308 and is not a foster parent delegation of parental responsibility.
- (5) The foster parent who selects short-term care for a foster child as a delegation of parental responsibility and not for respite care, incidental care, preserving connection or short-term relief care must ensure the caregiver has an eligible OBP background check and the child's caseworker approves the caregiver in-writing before allowing unsupervised direct access to the foster child.

R501-12-5. Short-Term Relief Care.

- (1) This section does not apply to a child-placing foster care agency or foster homes certified under their license, unless the agency maintains a department contract for placement of DCFS foster children.
- (2) The foster parent may use a short-term relief provider if:
- (a) DCFS approves the immediate family member or relative of the foster parent in-writing for caring for the foster child for less than six consecutive nights;
 - (b) the immediate family member or relative of the foster parent has an eligible OBP background check; and
 - (c) the immediate family member or relative of the foster parent, is not a relative of the foster child, unless approved by DCFS for a licensed kinship foster parent or an individual identified for preserving connection.

R501-12-6. Foster Parent Requirements.

- (1) The foster parent shall:
- (a) be in good health and emotionally stable;
 - (b) be able to provide for the physical, social, mental health, and emotional needs of the foster child;
 - (c) be a responsible person who is 18 years of age or older;
 - (d) be able to communicate with the foster child, the department, health care providers and other service providers;
 - (e) have at least one functionally literate applicant in the home able to read medication labels and other critical information;
 - (f) provide documentation of legal residential status in accordance with 8 U.S.C. Sec. 1642;
 - (g) have the ability to help the foster child thrive;
 - (h) demonstrate financial responsibility without dependence on the foster care reimbursement for their own expenses, outside of those expenses directly associated with providing foster care services;
 - (i) provide updated medical, social, financial, or other family information when requested by OL or the agency;
 - (j) follow federal, state and local laws and ordinances;
 - (k) demonstrate safe parenting practices by not engaging in conduct that poses a substantial risk of harm to any person or that is illegal or grounds for denying a license under Section 26B-2-703; and
 - (l) cooperate with the custodial agency goals and requirements regarding permanency, reunification, education, health care, and any other services required by the child's treatment plan or involved professionals.
- (2)(a) A department employee may not be licensed or certified as a foster parent for children in the custody of their respective custodial agency, unless they qualify as a relative to the child in accordance with Subsection 80-2a-101(5).
- (b) An employee may provide foster services for children in the custody of a different custodial agency only with the written approval of both custodial agency directors in accordance with department conflict of interest policy.
- (3) The foster parent shall cooperate with department, the agency, if applicable, courts, and law enforcement officials.
- (4) The foster parent shall read, acknowledge, and comply with the department provider code of conduct, as outlined in Rule R380-80.
- (a) The foster parent may not abuse, neglect, or maltreat a foster child through any act or omission.
 - (b) The foster parent may not encourage or fail to deter the acts or omissions of another that abuse, neglect, or maltreat a foster child.

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(5) No more than two children under the age of two, including children who are members of the household and foster children, shall reside in a foster home.

(6) No more than two non-ambulatory children, including children who are members of the household and foster children, shall reside in a foster home.

(7) A foster parent may not have more than the numerical limit of foster children in a foster home in accordance with Section 26B-2-128.

(8) The foster parent shall utilize reasonable and prudent judgment in selecting an incidental caregiver for a foster child and incidental care may only be utilized by a department licensed foster parent, not a foster parent certified by a licensed child-placing foster care agency.

(9)(a) The foster parent may provide respite care in their home as long as they remain in compliance with licensing rules in regard to each child placed for foster and respite care.

(b) The foster parent may provide respite care when the additional foster children exceed their licensed capacity only if:

(i) there are no licensing sanctions currently imposed, including corrective action plans or conditional licenses; and

(ii) the total number of foster and respite children in a home does not exceed six unless all except one or two of the children are part of a single sibling group.

(10)(a) Respite care, child care, incidental care, emergency care, or other temporary care for a foster child may be allowed in a licensed or unlicensed setting, with or without background checks if the child's the department client record identifies, by name, the individual's role in preserving [-]connection.

(b) The department custodial agency shall set parameters and oversee the safety aspects of a setting identified for preserving connection.

(c) Unlicensed kinship respite caregivers, identified by department, remain subject to licensure background check requirements and a custodial agency walk-through of the home for safety approval.

(d) A licensed child-placing foster care agency, except a department custodial agency, may not utilize an unlicensed caregiver for care of any foster child, unless specifically outlined in the custodial agency client record and authorized by the child's case worker.

(11) The foster parent or the agency shall report the following major changes or events to OL within one business day:

(a) the death or serious illness of a member of the foster parent's household;

(b) change in marital status;

(c) loss of employment;

(d) change in household composition, including the birth or adoption of a child, or the addition of household members or tenants;

(e) allegations of abuse or neglect of any child or vulnerable adult against any member of the foster parent's household;

(f) any material change; and

(g) anything defined as a "critical incident" in Rule R380-600.

(12) OL or the agency shall evaluate major changes to determine necessary actions that may include an update to the home study, implementation of a safety plan, amendments to the license certification, request for new references or examinations, or agency action.

(13)(a) The foster parent shall report any potential change in address in advance to OL or the agency.

(b) A license or certification is site-specific.

(c) An adjoining dwelling with a separate address that is not accessible from the foster home is not considered part of the foster home site.

(d) A foster child may not be moved into a home that is not licensed or certified to provide foster care except as allowed in Subsection R380-600-4(4)(d) for relocation of a license.

(e) The foster parent shall reside at the license location when a foster child is placed in their care.

(f) In the event of a separation or divorce:

(i) OL or the agency shall remove the foster parent who no longer resides at the licensed or certified location from the license or certificate and that foster parent shall apply for and meet licensing or certification requirements in the new residence to become licensed or certified at the new location; and

(ii) the foster parent remaining in the home shall demonstrate the ability to continue to meet the financial and other foster care licensure or certification requirements and OL or the agency shall complete an update to the home study.

(14) The foster parent shall offer nutritious, balanced meals that meet each foster child's individual needs.

(15)(a) The foster parent with a foster placement in the home shall continually comply with Rule R501-12.

(b) The foster parent with no placements in the home must demonstrate ability to comply upon request and ensure compliance before any new placement is made.

R501-12-7. Physical Aspects of Home.

(1) The provider shall ensure the following regarding the foster home environment:

(a) each indoor and outdoor area of the home is maintained to ensure a safe physical environment;

(b) the home is free from health and fire hazards;

(c) the home has a working smoke detector and a working carbon monoxide detector on each separated level and at least one of each shall be close to sleeping areas;

(d) the home has at least one fire extinguisher meeting the rating requirements of 2A:10BC, that is fully charged and readily accessible to the main living area;

(e) the home has at least one toilet, sink and tub or shower; and

(f) each bathroom has a lock sufficient to maintain the privacy of the occupant.

(2) The provider shall ensure each bedroom space complies with the following:

- (a) children of the opposite genders do not share a bedroom unless:
 - (i) each child sharing the room is under two years of age;
 - (ii) the department client record identifies gender-specific rationale; or
 - (iii) there is written caseworker approval for the bedroom assignment;
- (b) the foster parent's bedroom is only shared with a foster child under the age of two years and the foster parent may not bed-share with a foster child;
- (c) the foster parent's bedroom is not considered in calculating the allowable bedroom space for a foster child;
- (d) a foster child may not share a bedroom with other adults in the home;
- (e) a foster child has an individual bed or crib, mattress, and linens that meet the child's needs;
- (f) a weighted blanket is only used for a foster child if therapeutically recommended in-writing or approved in-writing by the child's caseworker;
- (g) there is a minimum of 40 square feet per child, excluding adjoining bathrooms and storage space;
- (h) no more than four children are housed in a single bedroom that houses at least one foster child;
- (i) a bedroom used for a foster child is comparable to other similarly utilized bedrooms in the home, including access, location, space, finishings, and furnishings;
- ~~[(j) a bedroom used by a foster child on the ground floor shall have a minimum of one screened window that opens that may be used to evacuate the room if there is a fire;~~
- ~~[(k) a bedroom used by a foster child that is not on the ground floor shall have a source of natural light and a minimum of two exits, at least one of which shall exit directly to outside the home that may be used to evacuate the room if there is a fire; and~~
- [(j) a bedroom used by a foster child shall have at least one screened window that opens that may be used to evacuate the room if there is a fire;
- [(k) any bedroom used by a foster child that is above the ground level shall have at least two exits from that level; and
- (l) closet or dresser space is provided within the bedroom for the foster child's personal possessions and for a reasonable degree of privacy.
- (3) The provider shall ensure:
 - (a) there is space or access to common areas for recreational activities;
 - (b) there is adequate lighting, ventilation and the home is maintained at a reasonable temperature when occupied by a foster child in consideration of the age and needs of the foster child and other residents;
 - (c) there is a properly operating kitchen with working refrigerator, cooking appliances, adequate supply of safe drinking water and functional indoor plumbing;
 - (d) each hazard on the property is abated and mitigated through the use of protective hardware, fencing, banister, railing, grate, natural barrier, or other licenser approved method to secure any:
 - (i) fall hazard of 3 feet or greater including a steep grade, cliff, open pit, window well, stairwell, elevated porch, and retaining wall;
 - (ii) drowning hazard including a swimming pool, hot tub, water feature, pond and stream;
 - (iii) burn hazard including fireplaces, candles, radiators, water temperature;
 - (iv) unstable heavy item, including a television and bookshelf;
 - (v) high voltage booster; and
 - (vi) dangerous traffic condition;
 - (e) the home and its contents are maintained in a clean and safe condition and food, clothing, supplies, furniture, and equipment are of sufficient quantity, variety, and quality to meet the foster child's needs;
 - (f) the home is free from rodent and insect infestation;
 - (g) there are at least two exits adequately sized for emergency personnel on each accessible ~~[floor]~~level of the home and a multiple-level home has a functional, automatic fire suppression system or an escape ladder, stairway, or other exterior egress to ground level accessible from each of the upper levels;
 - (h) the foster parent uses child safety devices appropriate to the needs of the foster child, including safety gates, and electrical outlet covers;
 - (i) the home address is clearly visible and location is accessible;
 - (j) the water and sewage disposal system, other than a public system, is approved by the appropriate authorities;
 - (k) there is trash and recycling disposal;
 - (l) any swimming pool is secured to prevent unsupervised access and complies with applicable community ordinances; and
 - (m) any hot tub or spa has a locked cover.

R501-12-8. Safety.

- (1) The foster parent and their guests may not smoke any substance in the foster home or vehicle when a foster child is present or residing in the home and shall ensure that smoking materials are inaccessible to foster children.
- (2) The foster parent shall provide training to children regarding response to fire warnings and other instructions for life safety upon the initial placement of a foster child and annually thereafter. [-]This includes an evacuation plan that also anticipates the evacuation of a foster child who is non-ambulatory or who has a disability.
- (3)(a) The foster parent shall have a phone that can make outgoing calls and is recognizable to the 911 system on-site during any time that a foster child is present.
- (b) The foster parent shall post telephone numbers for emergency assistance, poison control, the emergency evacuation plan and the address of the home in a central location accessible to the foster child.

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- (4) The foster parent shall have a fully supplied first aid kit as recommended by the American Red Cross.
- (5) The foster parent shall inform OL or the agency if they have or use a firearm or other weapon.
- (6) The foster parent shall ensure that any ammunition, firearm, or other weapon is inaccessible to a foster child.
- (7) The foster parent may not provide a weapon to a foster child or permit a foster child to have a weapon except as outlined in Sections 76-10-509.4 through 76-10-509.7.
 - (a) The foster parent does not have the authority of a parent or guardian to provide a dangerous weapon to a minor under Sections 76-10-509.4 through 76-10-509.7.
 - (b) The foster parent shall ensure the following regarding any firearm in the foster home:
 - (i) a firearm is only stored together with ammunition in a locked container commercially manufactured for the secure storage of a firearm;
 - (ii) a firearm not stored in a locked container commercially manufactured for the secure storage of firearms is unloaded and securely locked, and ammunition for the firearm is kept securely locked in a separate location;
 - (iii) the locked storage for a firearm and ammunition is not accessible through the same key or combination;
 - (iv) the key and combination used to open locked storage for a firearm and ammunition is not accessible to a foster child; and
 - (v) a firearm is stored in a display case only if it is unloaded and made inoperable through the effective use of a trigger lock, bolts removed, or another disabling method.
 - (8) Subsection R501-12-9(6) does not restrict an individual's rights regarding concealed weapons permits pursuant to Section 53-5-704.
 - (9) The foster parent who has alcoholic beverages in their home may not consume in excess and shall ensure that the beverages are closely monitored and inaccessible to foster children.
 - (10) The foster parent shall ensure hazardous materials remain locked when not in active use, and closely monitored while in active use, and shall ensure compliance with the following:
 - (a) hazardous materials are stored in the manufacturer's original packaging together with the manufacturer's directions and warnings, or a container that complies with the manufacturer's directions and warnings and is clearly labeled with the contents, manufacturer's directions and warnings;
 - (b) flammable substances, including gasoline and kerosene, are locked in a ventilated storage area separate from living areas, this requirement does not include substances contained within the storage tanks of equipment, including automobiles, lawnmowers, ATVs, boats and snow blowers; and
 - (c) general, common use, household items are stored responsibly in consideration of the age, behavior, history, and cognitive and physical ability of each foster child in the home, and in consultation with the caseworker and child and family team regarding individual restrictions.
 - (11) The foster parent shall comply with local laws and ordinances regarding the care and number of animals on their property.
 - (12) The foster parent shall ensure that the foster child has the safety equipment, supervision, and training necessary for the foster child to safely participate in an activity that has an inherent risk of bodily harm, injury, or death.
 - (a) These activities include participation in rock climbing, swimming, hunting, target practice, camping, hiking, use of recreational vehicles, and sports.
 - (b) The foster parent shall take every precaution in allowing a foster child to participate in the respective activity as safely as possible to include:
 - (i) wearing Department of Transportation or Snell-approved helmets when riding off-highway vehicles (OHVs);
 - (ii) completing OHV education;
 - (iii) completing personal watercraft or boating education;
 - (iv) wearing Coast Guard-approved lifejackets; and
 - (v) completing hunter's education.
 - (c) The foster parent shall follow any applicable statute pertaining to minors operating OHVs, personal watercraft, boats, and firearms.
 - (13) The foster parent shall comply with any written safety plan or license parameter required by OL or the agency, that establishes additional safety requirements to protect the foster child from hazardous conditions on the foster parent's property. A safety plan may not waive any applicable requirement of Rule R501-12.
 - (14) The foster parent shall provide verification of compliance with the department-recommended immunization schedules for each individual residing in the home who is not a foster child. [-]The foster parent may only be licensed or certified for placements of foster children who are over the age of 2 months and are currently immunized if vaccination compliance of each resident in the home cannot be verified.
 - (a) The foster parent must disclose if any individual residing in the home is not in compliance with the department-recommended immunization schedules to the child-placing foster care agency before accepting a placement.
 - (b) A newborn infant shall reach the required age and receive their first dose of required vaccinations to be considered appropriately immunized for their age.
 - (15) The foster parent may not accept the placement of a foster child into their home outside any license conditions or parameters.

R501-12-9. Emergency Plans.

- (1) The foster parent shall have a written plan of action for emergencies and disaster to include:
 - (a) evacuation with a pre-arranged site for relocation;
 - (b) transportation and relocation of foster children when necessary;
 - (c) supervision of foster children after evacuation or relocation; and

(d) notification of appropriate authorities.

(2) The foster parent or agency shall immediately report any serious illness, injury, or death of a foster child to the appropriate custodial agency and OL.

R501-12-10. Infectious Disease.

In the event of an infectious or communicable disease outbreak, the foster parent shall follow specific instructions given by the local health department.

R501-12-11. Medication and Medical Emergencies.

(1) The foster parent shall ensure the following regarding medications and medical emergencies:

(a) prescribed medication is administered according to the written directions of the foster child's health provider;

(b) the foster child consumes the medication;

(c) any severe or unexpected side effects or reactions are immediately reported to the foster child's health provider;

(d) medication is only given to the foster child for whom it was prescribed;

(e) medication is not discontinued without the approval of the foster child's health provider;

(f) non-prescription medication is administered by the foster parent according to manufacturer's instructions unless otherwise directed by the foster child's health provider;

(g) medication is not administered or carried by the foster child, unless approved in-writing by the foster child's health provider;

(h) medication is not used for behavior management or restraint unless prescribed in-writing by the foster child's health provider and after notification to the division or caseworker;

(i) medication remains locked at times it is not in immediate, active use;

(j) medication in active use is not left unattended and the foster parent may not abuse or misuse prescription or non-prescription drugs or medications;

(k) the foster parent may carry a necessary dose of medication for active use, if a foster child requires immediate access to their medication for asthma, allergies, diabetes or other condition requiring urgent administration of the medication;

(l) medication remains in the original pharmacy or manufacturer's packaging;

(m) the foster parent may not repack medication or divide doses into alternative containers;

(n) the foster parent partners with the pharmacy regarding any needed divisions of medication;

(o) the foster parent promptly takes a foster child who has a medical emergency, who is sick, or who is injured, for an assessment by a medical practitioner; and

(p) the foster parent complies with the treatment orders of the foster child's health provider.

(2) The foster parent shall transfer any unused medication to the caseworker or agency when a foster child is no longer placed in the foster parent's home.

(3) The foster parent shall have a written plan for medical emergencies, including arrangements for medical transportation, treatment, and care.

R501-12-12. Transportation.

(1) The provider shall ensure a driver of a vehicle carrying a foster child has a valid, current driver's license, valid, current vehicle insurance, and complies with traffic law.

(2) The provider shall ensure transport of a foster child is provided in an enclosed, registered vehicle that has functional seatbelts.

(a) The provider shall ensure foster children properly utilize seatbelts and other safety equipment, including age and size appropriate car or booster seats.

(b) Recreational vehicles, including motorcycles, may not be used for transportation.

(3) The provider shall ensure emergency contact information, including caseworker and agency information is accessible to any passenger in each vehicle used to transport foster children.

(4) The foster parent shall equip each vehicle with a first aid kit.

R501-12-13. Behavior Management.

(1) The foster parent shall provide supervision appropriate to the age and needs of each foster child.

(2) The foster parent may not use, nor permit the use of corporal punishment including:

(a) physical, mechanical, or chemical restraint;

(b) physical force;

(c) infliction of bodily harm or pain;

(d) deprivation of meals, rest, or visits with family; and

(e) humiliating or frightening methods to discipline, coerce, punish, or retaliate against a foster child.

(3) The foster parent shall only use a behavior management technique appropriate for the foster child's age, behavior, needs, developmental level, and past experiences.

(4) The foster parent shall use the least restrictive method of behavior management available to control a situation.

(5) The foster parent shall only use behavior management techniques that are positive, consistent, and that promote self-control, self-esteem, and independence.

(6) The foster parent may not use physical work assignments or activities that inflict pain as a behavior management technique. A physical work assignment or activity that results in minor sore muscles does not violate this subsection.

NOTICES OF PROPOSED RULES

- (7) The foster parent may not abuse, threaten, ridicule, intimidate, or degrade a foster child.
- (8) The foster parent may not deny a child medical care, nutrition, hydration, clothing, bedding, sleep, or toilet and bathing facilities.
- (9)(a) Physical restraint of a foster child in the custody of a department division is prohibited, unless expressly indicated in the child's department client record and the foster parent is appropriately trained and authorized by the department for its use.
- (b) Physical restraint of a foster child who is not in department division custody may only be performed by an individual with verified, documented training in accordance with the nonviolent strategies of a state, regional, or nationally recognized behavior management program.
- (c) Gently hugging, holding, or guiding a foster child is not considered a restraint.
- (d) The foster parent shall only perform self-defense as long as it is without aggression, retaliation, or unnecessary force and is reported to the caseworker, the agency if applicable, and OL within one business day.

R501-12-14. Foster Child's Rights in Foster Care.

The foster parent may not violate a foster child's right to:

- (1) eat nutritious meals with the family;
- (2) eat the same food as the family, except when the foster child is provided with alternative food ordered by the foster child's physician;
- (3) participate in family and school activities;
- (4) privacy, including maintaining the confidentiality of information about the foster child and not retaining copies of the foster child's records once the foster child is no longer placed in the home;
- (5) be informed of the foster child's responsibilities, including household tasks, privileges, and rules of conduct;
- (6) be protected from discrimination;
- (7) be protected from harm or acts of violence, including protection from physical, verbal, sexual, or emotional abuse, neglect, maltreatment, exploitation including source funding, or inhumane treatment;
- (8) be treated with courtesy and dignity, including reasonable personal privacy and self-expression and not provided temporary items including garbage bags for collecting or transporting belongings;
- (9) communicate with and visit the foster child's family, attorney, physician, and clergy, except as restricted by court order;
- (10) have clean clothes and personal hygiene needs met;
- (11) participate in their own cultural traditions;
- (12) receive prompt medical care when sick or injured; and
- (13) be free from media content that is likely harmful considering the foster child's age, behavior, needs, developmental level, and past experiences.

R501-12-15. Additional Child-Placing Foster Care Agency Considerations.

- (1) The agency shall comply with:
 - (a) this rule;
 - (b) Rule R380-600;
 - (c) Rule R501-14; and
 - (d) Section 80-2-9 regarding the Interstate Compact for the Placement of Children (ICPC) for agencies taking placements from out-of-state.
- (2) The agency shall ensure certified foster parent compliance with this rule.
- (3) The agency shall recruit, train, certify, and supervise foster parents.
- (4) The agency may not certify a home that is licensed or certified or applying to be licensed or certified with any other agency.
- (5) The agency may not certify agency owners, directors, managers, and members of the governing body to provide foster care services for foster children placed with or by any child-placing foster care agency.
- (6) The agency must complete the following before issuing an initial or renewal certification or before making a placement in the foster home:
 - (a) verify completion of the foster parent's training requirements;
 - (b) in addition to the foster parent training requirements of this rule, train each foster parent regarding the agency's policies and procedures and safe practices;
 - (c) provide department with identifying information of certified foster homes through the OL provider portal; and
 - (d) certify foster parent for a specific time period that does not exceed one year and make documentation of certification dates available to OL upon request.
- (7) The agency shall:
 - (a) maintain documentation of the initial and annual home studies and any updates and provide to OL upon request;
 - (b) have a written agreement with the foster parents that includes:
 - (i) the expectations and responsibilities of the agency, staff, foster parents and limitations of authority;
 - (ii) the services to be provided to and by the foster parent;
 - (iii) the requirements to provide medical, remedial, treatment, and other specialized services to a foster child;
 - (iv) the financial arrangements for a foster child placed in the home;
 - (v) the authority foster parents can and cannot exercise over a foster child placed in the home; and
 - (vi) actions that require staff or department authorizations;
 - (c) monitor and keep detailed documentation regarding foster parents' compliance with Rule R501-12;

- (d) document each announced and unannounced visit to the foster home, including an initial safety inspection and a minimum of one unannounced safety inspection annually;
- (e) document each safety inspection completed by the agency on the OL-provided home inspection checklist, or a similar form that contains the OL-provided form contents;
- (f) coordinate with OL when checklist items are not compliant or other noncompliance is noted to determine how to proceed;
- (g) document actions on foster parent certifications in the foster parent file to include any request for remediation with assigned time frames, request corrective action plan from the foster parent, or any action to suspend certification or revoke certification;
- (h) escalate the level of agency action taken toward foster parent certification when there are multiple notations of noncompliance with the same rule;
- (i) maintain completed checklists and compliance monitoring documentation in each foster parent file;
- (j) investigate complaints and alleged violations of Rules R501-12, R501-14, and R501-1. [-]The agency shall provide documentation to OL of any investigations into complaints and alleged violations of licensing rules;
- (k) provide written notification to each foster parent that informs the foster parent of the rights and responsibilities assumed by the foster parent who signs as the responsible adult for a foster child to receive a driver license, as described in Section 53-3-21 and maintain documentation in the foster parent's file, signed, and dated by the foster parent, acknowledging receipt of a copy of this written notification;
- (l) have and comply with written policies and procedures regarding the denial, suspension, and revocation of a foster parent's certification to provide foster care services, that includes written notification of the foster parent's appeal process;
- (m) provide documentation and immediate notification to OL and the custodial agency of any denial, suspension, revocation or other agency-initiated termination of a foster parent's certification;
- (n) not grant or permit any variance to Rule R501-12 or any other regulation without the prior written consent of the director or director's designee of OL;
- (o) provide ongoing supervision of certified foster parents to ensure the quality of care they provide; and
- (p) participate with each foster child's legal guardian and the foster parent to obtain, coordinate, and supervise care and services necessary to meet the needs of each foster child in their care.
- (8) The agency may not take placement of a foster child whose needs exceed the scope or ability of the program to reasonably manage, and the agency shall:
 - (a) outline in policies and procedures the behaviors and presenting issues would be reason for discharge or exclusion from the program;
 - (b) document how the placement of the foster child is appropriate and commensurate with presenting needs and the services that are available to address the child's needs;
 - (c) conduct or coordinate monthly visits to the foster child in the placement or school;
 - (d) maintain responsibility for the child's behavior in the program, school and community;
 - (e) maintain responsibility for transitioning a foster child or 18 to 21-year-old into safe and appropriate placement upon discharge from the program or in accordance with ICPC disruption plan if the child is from out-of-state; and
 - (f) ensure in policy and safe practices that sending a child to a homeless shelter, refusal to pick up from detention, or offering one-way plane or bus tickets are not appropriate or responsible program transition actions, unless supported by therapeutic or parental recommendation.
- (9) The agency shall:
 - (a) provide and receive approval from the school district of certified homes with a youth education coordinating form in compliance with the requirements of Section 26B-2-116;
 - (b) provide accurate and truthful written references for any previously certified home that requests such reference to work with foster children in another licensed agency;
 - (c) maintain copies of completed foster parent initial and renewal applications and accompanying documents, home study document and any subsequent updates, and any other foster parent documentation in a format easily accessible for OL review;
 - (d) follow department contract requirements and request guidance from the Division of Continuous Quality and Improvement and OL in the event of conflicting requirements; and
 - (e) if serving individuals involved with the Division of Services for People with Disabilities, ensure compliance with the Home and Community Based Services Settings Final Regulation as identified in 42 CFR 430 and 431 (2024) that shall prevail in the event of a conflict with any rule under Title R501.
- (10) If the agency does not act when foster parent noncompliance is alleged or noted, OL may take an action on the agency license.

R501-12-16. Additional DCFS Kinship and Specific Home Licensure Considerations.

- (1) An applicant may apply for licensure for the placement of a specific foster child or sibling group.
- (2) The minimum age for a kinship or specific applicant is 18 years of age and a kinship applicant is allowed to cohabitate or be legally married.
- (3) Only OL, an agency contracted by the department, or an approved DCFS kinship home study specialist may conduct a kinship or specific home study.
- (4) A minimum of two acceptable reference letters sent in accordance with Subsection R501-12-4(5) are required for a kinship or specific applicant.
- (5) The foster parent may not accept a placement until the home study, safety inspection, and background checks are successfully completed, unless the placement is made on an emergency basis as authorized by Section 80-2a-301.

NOTICES OF PROPOSED RULES

(6) OL shall grant a kinship or specific probationary license or initial license upon receipt and approval of a completed kinship or specific packet submitted by DCFS.

(a) A kinship or specific probationary license expires no later than the last day of the fifth month from the issue date if compliance is not met before that time.

(b) The probationary licensee may receive an initial license at any time within the probationary 5 months when compliance with probationary terms is met.

(c) A probationary licensee whose probationary terms are not met before the expiration of that license may either expire or extend with OL-approved documented justification.

(7) A kinship or specific home licensee may not accept placement of any foster child other than the foster child, or relatives to that foster child, as designated on the license or certificate.

(8) If a kinship or specific licensee desires to provide general foster care services, they shall complete the following:

(a) submit written approval from their DCFS kinship support worker to become a general foster parent to OL and the DCFS contracted recruitment and training agency to initiate required training;

(b) close the kinship or specific license and submit to the requirements of an initial foster care license to include:

(i) complete initial foster care application; and

(ii) complete foster care pre-service training series with the exception of session one, if completed within the last 2 years;

(c) submit to a home study update interview with their licensor to change child-specific content to general foster parent requirements; and

(d) provide any new reference letters as requested.

(9) If DCFS does not support a license change, no further licensing action will be taken, unless the issue is disputed and overturned by the OL director.

(10) In accordance with Section 26B-2-130 and the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 through 1963, DCFS may request reduced requirements for a kinship specific licensee by submitting a variance request outlining the requirements to be varied and how the request does not impact the health and safety of the specific foster child or sibling group. This variance request must be approved in writing by the director of OL before it may become effective.

R501-12-17. Compliance.

(1) Any active license on the effective date of this rule shall achieve compliance with this rule within 30 days.

(2) Any person who violates this rule may be subject to the penalties in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

KEY: licensing, human services, foster care, certified foster care

Date of Last Change: ~~February 10, 2025~~

Notice of Continuation: October 3, 2022

Authorizing, and Implemented or Interpreted Law: 26B-2-104

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:

R501-14

Filing ID: 57120

Agency Information

1. Title catchline:		Health and Human Services, Human Services Program Licensing	
Building:		Multi-Agency State Office Building	
Street address:		195 N 1950 W	
City, state:		Salt Lake City, UT	
Contact persons:			
Name:		Phone:	Email:
Janice Weinman		385-321-5586	jweinman@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:

R501-14. Human Service Program Background Screening

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

This amendment aligns terminology and standardizes statutory citations within the Division of Licensing and Background Checks (DLBC) rules pertaining to background checks for human services programs.

Section R501-14-18 is created to reflect the changes resulting from SB 229 passed in the 2024 General Session that consolidates existing licensing penalties and enforcement authority into a singular section applying to each provider governed by DLBC.

Additionally, the Office of Background Processing (OBP) determined that it could comply with existing statute without the involvement of a comprehensive review committee and instead more efficiently meet requirements by conducting comprehensive reviews internally.

4. Summary of the new rule or change:

Nonsubstantive changes include standardizing the catchline from "background screening" to "background check," changing "office" references to "OBP" (Office of Background Processing), and defining OBP to distinguish it from the Office of Licensing which is also an office under the DLBC. This filing adds and clarifies definitions and updates terms and phrases in accordance with the Rulewriting Manual for Utah.

Substantive changes modify the existing process for human services program background checks by removing references to, and requirements for, a comprehensive review committee. This filing simplifies what constitutes a comprehensive review, as defined in Section 26B-2-120, that is conducted by OBP. Any denied applicant is still offered due process and the opportunity to appeal, regardless of the means that OBP comes to the applicant's final determination. The filing changes the length of OBP's approval remaining valid from 90 to 180 days and a denied applicant cannot reapply for two years to be consistent with health facility and child care licensing background check time frames.

Previous rule sections regarding licensing exemptions were removed, as the exemptions are now identified as part of the initial and renewal licensing processes and unnecessary for this rule. Section R501-14-16 references DLBC's enforcement rule, Rule R380-600, and Section 26B-2-7 for penalties in accordance with SB 229 (2024).

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) may see an inestimable savings as a result of this amendment. This amendment may save on staff time, as the bi-monthly 5- to 8-hour long committee meetings, which previously required staff attendance, will no longer happen. This savings amount is inestimable, as employee pay rates differ and there is no way of knowing which employees would have participated in a way that was already part of their normal staff duties.

OBP also does not have any baseline data reflecting the differences between time and hours spent on cases that were comprehensively reviewed by a committee versus those comprehensively reviewed by OBP staff alone.

It is not anticipated that OBP will see any additional costs by taking on comprehensive reviews, as OBP is already conducting these reviews.

B) Local governments:

This amendment is not anticipated to have a fiscal impact on local governments, as local governments are not involved with OBP's internal background check processes.

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

This amendment is not anticipated to have a fiscal impact on small businesses, as small businesses are not involved with the Department's internal background check processes.

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

This amendment is not anticipated to have a fiscal impact on non-small businesses, as non-small businesses are not involved with the Department's internal background check processes.

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

This amendment is not anticipated to have a fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities, as there are no other persons involved with the Department's internal background check processes.

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

There are no anticipated compliance costs for affected persons, as the only fiscal impact identified is a potential savings to the Department.

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

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

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

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information

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

Section 26B-2-120	Section 26B-2-121	Section 26B-2-122
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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: 06/17/2025

9. This rule change MAY become effective on: 06/24/2025

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:	Tracy S. Gruber, Executive Director	Date:	04/22/2025
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R501. Health and Human Services, Human Services Program Licensing.**R501-14. Human Services Program Background ~~[Screening]~~Checks.****R501-14-1. Authority and Purpose.**

- (1) ~~[This rule is authorized by]~~ Sections ~~26B-2-104,~~ 26B-2-120~~, 26B-2-121, and~~ through 26B-2-122 authorize this rule.
- (2) This rule clarifies the standards for approving, denying, or revoking an applicant's background ~~[screening]~~check.

R501-14-2. Definitions.

(1) "Abuse" means the same as defined in Sections 26B-6-201 and 80-1-102~~[and 26B-6-201,]~~ and may include severe abuse, severe neglect, and sexual abuse~~[-as these terms are defined in Sections 80-1-102 and 26B-6-201].~~

~~_____~~ (2) "Adult-only Substance Use Disorder Program" means a program serving substance use disorder-related clients and does not serve clients under the age of 18.]

(3) (2) "Applicant" means the same as defined in Section 26B-2-120 and includes anyone associated with a licensee as defined in Section 26B-2-101 and any[a] person whose identifying information is submitted to ~~[the office]~~ OBP under Sections 26B-2-120, 26B-6-107, 26B-6-410, 78B-6-128, and 78B-6-1[43]31.

(4) (3) "BCI" means the Bureau of Criminal Identification~~[-]~~ and is the designated state agency of the Division of Criminal Investigation and Technical Services Division within the Department of Public Safety that is responsible for maintaining criminal records~~[-in Utah].~~

(5) (4) "Child" means the same as defined in Section 26B-2-101.

(6) (5) "Child [P]lacing" means the same as defined in Section 26B-2-101.]

~~_____~~ (7) "Committee" means the comprehensive review committee appointed to conduct reviews in accordance with Section 26B-2-120.]

(6) "Clearance" means the determination level OBP is statutorily required to make, based on the provider the applicant is associated with in DACS.

(7) "Comprehensive review" means the same as outlined in Subsection 26B-2-120(7)(a).

(8) "Congregate care program" means the same as defined in Section 26B-2-101 and may be referred to as a youth residential program in rules under Title R501.

(9) "Criminal finding" means the same as defined in Section 26B-2-120.

(8) (10) "DAAS [S]tatewide [D]atabase" means the Division of Aging and Adult Services database created by Section 26B-6-210 to maintain reports of vulnerable adult abuse, neglect, or exploitation.

(11) "DACs" or "Direct Access Clearance System" means the online system used by the Division of Licensing and Background Checks (DLBC) for maintaining background check information and determinations.

(9) (12) (a) "Determination" means the listing of results of OBP's statutorily-guided review of criminal and non-criminal findings in DACS~~[the background clearance findings in the online system. The following four determinations may be made by the office]~~

(b) OBP may determine an applicant is:

(i) eligible for conditional hire or conditional approval under conditions outlined in Subsection R501-14-7(2);

(a) (ii) eligible for hire or ~~[eligible]~~ approval ~~[for hire]~~ and may work unsupervised;

(b) (iii) ~~[in]~~ not eligible for hire and may not work; or

(c) (iv) supervised only to work ~~[at all times]~~ under direct supervision of another employee with an eligible department clearance while in the presence of a client[s] or client record~~[-s; or]~~

~~_____~~ (d) conditional hire or conditional approval under conditions outlined in Subsection R501-14-7(2).]

(1) (0) (3) "Direct [A]ccess" means the same as defined in Section 26B-2-101.

(1) (4) (4) "Direct [S]ervice [W]orker" means the same as defined in Section 26B-6-401.

(1) (2) (5) "Directly [S]upervised" means the same as defined in Section 26B-2-101.

(1) (3) ~~"FBI Rap Back System" means as defined in Section 53-10-108.~~

~~_____~~ (4) (6) "Fingerprints" means an ~~[individual's]~~ applicant's fingerprints as copied electronically through a fingerprint scanning device or on two ten-print fingerprint cards by a law enforcement agency, an agency approved by the BCI, or a provider representative~~[screening agent].~~

(1) (5) (7) "Foster [H]ome" means the same as defined in Section 26B-2-101.

(1) (6) (8) "Harm" means the same as defined in Subsection R380-600-2(17)~~[-, and for background screenings, also includes causing or threatening to cause financial damage or fraud.]~~

(1) (7) (19) "Human Services Program" means the same as defined in Section 26B-2-101.

(1) (8) (20) "Licensee" means the same as defined in Section 26B-2-101.

(1) (9) (21) "Licensing Information System" ~~[or "LIS"]~~ means the system created by Section 80-2-1002, as a sub-part of the Division of Child and Family Services' Management Information System (MIS) created by Section 80-2-1001.

(2) (0) (2) "Neglect" means the same as defined in Sections 26B-6-201 and 80-1-102~~[and 26B-6-201].~~

(23) "Non-criminal finding" means the same as defined in Section 26B-2-120.

(2) (4) (4) ~~"[Office]"~~ "OBP" means the Office of Background Processing within the ~~[Division of Licensing and Background Checks]~~ DLBC.]

~~_____~~ (22) "Online system" means the office's electronic online background clearance system.]

(2) (3) (5) "Personal [H]identifying [H]information" means the same as defined in Section 26B-2-120~~[-]~~ and includes~~[-]~~ a government-issued photo identification or government-issued document identifying requested information.]

~~_____~~ (a) a current, valid state driver's license or state identification card bearing the applicant's photo, current name, and address;

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- ~~(b) a current, valid government issued identification card bearing the applicant's name and photo, including passports, military identification, and foreign government identification cards; or~~
~~(c) other records specifically requested in writing by the office.]~~
(26) "Program" means a human services program as defined in Section 26B-2-101.
(27) "Provider" means the same as defined in Section R380-600-2.
(28)(a) "Provider representative" means the individual or individuals responsible, on the program's behalf, to:
(i) ensure information remains current in DACS for each applicant and program;
(ii) enter applications for each applicant;
(iii) initiate, maintain, and monitor background communications with OBP;
(iv) protect personal identifying information; and
(v) verify employment.
(b) "Provider representative" also means a background screening agent under Title R501.
(29) "Rapback system" means the same as defined in Section 53-10-108.
([24]30)(a) "Reside" means retaining a residence for six or more consecutive months.
(b) Reside does not mean religious, educational, or military service as long as the primary state of residence is maintained.[
(25) "Request Type" means the type of employment and clearance level statutorily required for the type of provider the applicant is applying to work under as categorized in the online system.
(26) "Screening Agent" means the individual responsible for:
(a) initiating, monitoring, and maintaining background clearance communications with the Office;
(b) entering applications;
(c) verifying and protecting personally identifying information; and
(d) ensuring information is current in the online system for their program's applicants, and providers.
(27) "Substance Abuse Treatment Program" means as defined in Section 26B-2-101.]
([28]31) "Supported" means the same as defined in Sections 26B-6-201 and 80-1-102.
([29]32) "Vulnerable [A]adult" means the same as defined in Section 26B-2-101.
[~~(30) "Youth Residential Program" is also known as congregate care and means a 24-hour group living environment serving four or more youth. This does not include foster homes or child placing agency certified homes.~~
]

R501-14-3. Initial Background [Screening]Check Procedure.

- (1) [The]A provider representative [screening agent] shall ensure that an applicant for an initial background check[screening] completes the required application fields and disclosure statements to authorize [the office]OBP's continual monitoring of [their]the applicant's fingerprints and applicable state registries.
- (2) An applicant shall disclose any criminal [charges]findings, including pending charges, and any [supported or substantiated]non-criminal findings [of abuse, neglect, or exploitation]during the background check[screening] application process.
- (3)(a) An applicant may provide disclosure statements and related documents as direct attachments to the application to be uploaded into [the online system]DACS by a provider representative[screening agent] or directly emailed to [the office]OBP.
(b) If an applicant submits a sealed envelope, the provider representative[screening agent] shall forward it unopened to [the office]OBP[unopened].
- (4) [The office]OBP will conduct the highest level clearance, including out-of-state child abuse and neglect registry checks, for any of the following applicants who have lived out-of-state within the past five years:
~~(a) an applicant seeking a position in a youth residential program;~~
~~(b) a prospective foster parent or prospective adoptive parent; and~~
~~(c) an adult in the home of a prospective foster or prospective adoptive parent.]~~
(a) a prospective foster parent or prospective adoptive parent;
(b) an adult in the home of a prospective foster parent or prospective adoptive parent; and
(c) an applicant seeking a position in a congregate care program.
- (5)(a) An applicant applying to work in a [youth residential]congregate care program who has resided outside of Utah within the five years immediately [preceding]before the date of the background check[screening] application shall provide a child abuse and neglect registry record for each state in which the applicant has resided within those five years.
(b) Instructions for obtaining out-of-state child abuse and neglect registry records from each state are found on the [office]DLBC website[at: <https://hslic.utah.gov/Out-of-state-registries>].
(c) Out-of-state child abuse and neglect registry records are not required a second time for a background check[screening] transfer or renewal as long as a record from every state the applicant has resided in over the past five years has been previously submitted and reviewed by [the office]OBP.
(d) Any applicant for prospective foster or adoptive care is not required to submit [their]the applicant's own out-of-state child [and] abuse and neglect registry [checks]records, [it is]as they are included in the background check conducted by [the office]OBP.
(e) A [youth residential]congregate care program provider who is not department[-]contracted shall supervise an applicant experiencing delays in receiving a requested out-of-state registry record while the record is pending, unless:
(i) the applicant has initiated the out-of-state record search and [it]the search is actively in progress; and
(ii) [the office]OBP otherwise approves the applicant's background check[screening] with no [committee]comprehensive review required.

(f) ~~[The office]~~OBP may not issue a renewal clearance if the original out-of-state registry results have not been provided to ~~[the office]~~OBP within the 12-month initial clearance time frame.

(g) The allowance outlined in Subsection (d) does not apply to a department~~[-]~~contracted ~~[youth residential settings]~~congregate care program provider.

~~(g)h(i)~~ ~~[The office]~~OBP shall deny or revoke a background check~~[screening]~~ if any out-of-state registry record contains information that constitutes background check~~[screening]~~ denial under this rule.

~~(ii)~~ ~~[and t]~~The provider representative shall end the employee's direct access to clients and client records immediately upon an ineligible determination notification from ~~[the office]~~OBP.

(6) A prospective foster parent, ~~[or]~~prospective adoptive parent, or an adult living in the home of a prospective foster parent or prospective adoptive parent shall identify any state they have resided in over the past five years for ~~[the office]~~OBP to conduct the out-of-state registry search for ~~[their]~~the clearance of the prospective foster parent or prospective adoptive parent and any adult living in the home.~~[clearance.]~~

(7)(a) The provider representative shall require a~~[A]~~n applicant ~~[shall]~~to present valid government-issued photo identification to~~[the screening agent to]~~ verify the application.

(b) The provider representative~~[background screening agent]~~ shall inspect each applicant's government-issued photo identification card and determine that ~~[it]~~the identification does not appear to have been forged or altered.

(c) The provider representative~~[screening agent]~~ shall submit the background check~~[screening]~~ application, personal identifying information, signed consent disclosure statement, and applicable fee into ~~[the online system]~~DACS.

(d) The provider representative~~[screening agent]~~ may withdraw a background check~~[screening]~~ application any time during the process.

R501-14-4. Renewal Background ~~[Screening]~~Check Procedure.

(1) A renewal application is not required if the applicant has an application entered into ~~[the online system]~~DACS under the program where ~~[they]~~the applicant works, a signed disclosure statement form uploaded, and initial fingerprints that are enrolled in the rap~~[-]~~back system.

(2) ~~[The office]~~OBP shall continuously monitor criminal records ~~[on an ongoing basis]~~and annually monitor applicable state registries~~[on an annual basis]~~.

(3)(a) The provider representative~~[screening agent]~~ shall keep the~~[it]~~ program's roster and employee information current in ~~[the online system]~~DACS.

(b) The provider representative~~[screening agent]~~ shall check the roster at least monthly to verify employee information and the employment of employees due for a renewal review.

(c) When an employee no longer works for the program, the provider representative~~[screening agent]~~ shall separate that employee from the program's roster in ~~[the online system]~~DACS within five days of the employee's separation from the program.

(4) An ~~[individual]~~applicant who is no longer affiliated with any licensed or certified program ~~[will have]~~has ~~[90]~~180 days to become re-employed before ~~[the office]~~OBP reports to the Department of Public Safety to cancel the ~~[individual's]~~applicant's rap~~[-]~~back subscription,~~[to the Department of Public Safety to be cancelled.]~~

R501-14-5. General Background ~~[Screening]~~Check Procedure.

(1)(a) ~~[The department]~~OBP may not process an application ~~[that lacks]~~without the required applicable fee, applicant information, and a signed disclosure statement~~[-, applicant information, or applicable fees until the requirements are provided to the office]~~.

(b) ~~[The office]~~OBP shall use personal identifying information to perform a search in accordance with Section 26B-2-120.

(2)(a) The ~~[screening agent]~~provider representative shall submit a~~[n]~~ background check application for each applicant for an initial background ~~[screening]~~check no later than two weeks from the date the applicant becomes associated with the licensee, certification, or contract.~~[applicant becoming associated with the licensee.]~~

(b)(i) The provider representative shall ensure an applicant is directly supervised until ~~[the office]~~OBP issues a conditional or eligible clearance determination~~[-, and]~~.

~~(ii)~~ ~~[t]~~The provider representative shall document how the ~~[individual]~~applicant remains supervised for the entirety of ~~[their]~~the applicant's supervised employment term before receiving a clearance determination.

~~(e)3~~ An applicant is eligible to work unsupervised when:

~~(i) the criminal record check reveals no criminal offenses subject to automatic denial in accordance with Section 26B-2-120;~~

~~(ii) both in-state and out-of-state registry checks are completed as applicable, except as outlined in Subsection R501-14-3(5)(f); and~~

~~(iii) there is no comprehensive review as required by Section 26B-2-120.]~~

~~(a) both in-state and out-of-state registry checks are completed, as applicable, except as outlined in Subsection R501-14-3(5)(f);~~

~~(b) the criminal record check reveals no criminal findings subject to automatic denial in accordance with Section 26B-2-120; and~~

~~(c) there is no comprehensive review required as outlined in Section 26B-2-120.~~

~~(d)4~~ The provider representative shall ensure an applicant with a pending ~~[committee]~~comprehensive review is always supervised ~~[at all times]~~until ~~[the office]~~OBP makes the final determination.

~~(e)5(a)~~ The provider representative may not allow an applicant whose background check~~[screening]~~ application is denied to have any supervised or unsupervised direct access to clients unless:

~~(i) OBP approves a subsequent application; or~~~~[the denial is overturned in an administrative hearing or by the office director; or]~~

~~(ii) [the office approves a subsequent application.]~~~~[the denial is overturned in an administrative hearing or by the OBP director.]~~

~~(f)b~~ The provider representative shall ensure an applicant initiating an appeal of a denied application works under direct supervision until ~~[the department]~~OBP issues a ~~[disposition]~~determination regarding the appeal.

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(3)(6) The provider representative shall ensure the applicant or provider representative~~(screening agent)~~ promptly notifies ~~the office~~OBP of any updated application details or new investigations of any abuse, ~~or~~ neglect, or ~~any~~ new criminal ~~charge~~finding by~~;~~:

(a) ~~updating the online system with changes to name and contact information; and emailing any new allegation or investigation of~~ any abuse, neglect, or new criminal finding; and

(b) ~~emailing ebsunit@utah.gov with any new allegation or investigation of abuse or neglect or new criminal charges; updating~~ DACS with any change to the applicant's name or contact information.

(4)(7)(a) The provider representative~~(screening agent)~~ may conduct livescan fingerprinting on an independent livescan machine for submission to ~~the office~~OBP only after completing training in the proper methods of taking fingerprints and ensuring ~~all~~each department billing code~~s are~~ is accurately entered into the machine.

(b) The provider representative~~(screening agent)~~ shall verify the identity of the applicant by inspecting the applicant's personally identifying information when the application is entered into the livescan machine.

(c) The applicant shall present the same government-issued photo identification required in Subsection R501-14-3(6)(7)(a) with the fingerprint authorization form to the livescan operator.

(d) A minor applicant ~~that~~who submits a youth application with no fingerprints and is not currently on the ~~FBI Rap Back System~~rapback system shall submit fingerprints within 30 days before the minor applicant's 18th birthday.

R501-14-6. Background ~~(Screening)~~Check Fees.

(1) ~~The~~An applicant and provider representative~~(screening agent)~~ shall ensure the accuracy of information submitted with each application~~s~~ and fee payment~~s~~.

(2) The provider representative~~(screening agent)~~ shall ensure any fee~~s are~~ is made by E-check, credit card, or internal department transfer.

(3) The provider representative~~(screening agent)~~ may choose to submit payments individually or in a batch.

(4) ~~The office~~OBP may not refund or transfer a fee~~s~~ unless the fingerprints were never submitted to the Department of Public Safety and ~~the office~~the Department of Public Safety ~~was~~never billed OBP~~by the Department of Public Safety~~.

(5) The ~~legislatively set~~ ~~office~~OBP processing fee ~~that is set legislatively~~ is not refundable.

R501-14-7. Application Processing and Results.

(1)(a) ~~The office~~OBP shall approve an application for a background check~~(screening)~~ in accordance with S~~ub~~section 26B-2-120~~(8)~~.

(b) ~~The office~~OBP shall notify ~~the~~an applicant, through the~~ir~~ provider representative~~(screening agent)~~, when ~~an~~the applicant's background check~~(screening)~~ application is approved or denied.

(c) ~~The office~~OBP shall only provide approval or denial information to a provider representative~~(screening agent)~~ through a determination in ~~the online system~~DACS.

(d) ~~The office~~OBP approval is valid until:

(i) 180 days after the ~~individual~~applicant is ~~either~~no longer associated with ~~any~~the licensee, certification, or contract ~~licensed or department contracted program for 90 days~~ in accordance with Subsection R501-14-4(4)~~;~~ or

(ii) ~~until~~a new criminal or non-criminal finding~~supported finding of abuse or neglect~~ constitutes background check~~(screening)~~ clearance review or revocation.

(2)(a) ~~The office~~OBP may conditionally approve an application for a background check~~(screening)~~ in accordance with Subsection 26B-2-120(9) only when awaiting the results of a criminal history search of national background databases from the Bureau of Criminal Identification.

(b) ~~The office~~OBP may not issue a conditional approval for an initial applicant who is:

(i) a resident of a child~~-~~placing foster or adoption home; or

(ii) ~~an applicant~~working in a department~~-~~contracted ~~youth residential~~congregate care program.

(c) ~~The~~A provider representative~~(screening agent)~~ seeking the conditional approval of an applicant may ~~not~~only request conditional approval ~~unless~~if:

(i) ten business days have passed ~~after the office~~since OBP received~~s~~ the applicant's complete background check~~(screening)~~ application; and

(ii) ~~without receiving~~the provider representative has not received notification of the application's approval or denial~~of the application~~.

(d) The provider representative~~(screening agent)~~ shall submit a written request for conditional approval that includes the:

(i) ~~the~~applicant's full name;

(ii) ~~the last four digits of the applicant's social security number; and~~date the application was submitted in DACS with any required consent disclosure and fee; and

(iii) ~~the date the application was submitted with the required consent disclosures and fees in the online system~~last four digits of the applicant's social security number.

(e) The provider representative shall submit the written conditional approval request through ~~the online system~~DACS or by email to ~~ebsunit@utah.gov~~the OBP criminal background screening (CBS) unit email on the DLBC website.

(f) OBP shall make a conditional determination within three business days of ~~Upon~~receiving~~pt of~~ a written request for conditional approval that complies with Subsections ~~R501-14-7~~(2)(c) and (d)~~, the office shall make a conditional determination within three business days~~.

(g) A conditional approval expires within 60 days unless the applicant is awaiting the results of an out-of-state registry check as the only remaining item prohibiting clearance.

(h) ~~[The office]~~OBP may ~~[not]~~ issue renewal clearance or new conditional clearance only if the applicant has ~~[not]~~ provided the out-of-state registry check within 12 months of the initial application.

(i) If ~~[the office]~~OBP does not provide a standard approval before the expiration date of the conditional approval, the provider shall ensure the applicant is directly supervised until approval is granted.

(j) ~~[The office]~~OBP may revoke the conditional approval before the expiration date.

(3) ~~[The office]~~OBP shall deny an application for a background check~~[screening]~~ in accordance with Section 26B-2-120.[

~~_____~~ (4) ~~The provider shall ensure an applicant whose background screening is denied has no further supervised or unsupervised direct access.]~~

~~_____~~ ((5)4)(a) ~~[The office]~~OBP shall ~~[refer]~~conduct a comprehensive review of an application~~[-to the committee]~~ in accordance with Subsection[s] 26B-2-120((5)7)(b) and 26B-2-120(6)].

~~_____~~ (b) ~~In accordance with Subsection 26B-2-120(6)(c), the committee shall review a misdemeanor conviction, except those listed in Subsection (5)(c), that occurred within the ten years before submission of the application to the office.]~~

(5) OBP shall conduct a comprehensive review of an applicant's background check if the applicant:

(a) has a driving offense that includes any criminal finding that is substantially similar to:

(i) an accident involving bodily harm or death, as described in Sections 41-6a-401.3 and 41-6a-401.5;

(ii) driving while impaired, as described in Sections 41-6a-502.5 and 41-6a-517;

(iii) exhibition driving, as described in Section 41-6a-606; or

(iv) reckless driving, as described in Section 41-6a-528;

(b) has any criminal or non-criminal findings within the time frames listed in Subsections 26B-2-120(6), (12), and (13);

(c) has any felony listed in Subsection 26B-2-120(5);

(d) has been convicted of, has pled no contest, or is subject to a plea and abeyance or diversion agreement;

(e) is applying as a prospective foster parent or prospective adoptive parent and has a listing in MIS;

(f) is applying to work in a congregate care program and has a listing in MIS; or

(g) has a criminal or non-criminal finding that is substantially similar to a criminal or non-criminal finding described in this section.

(6) OBP may not conduct a comprehensive review of a criminal finding identified as an infraction or misdemeanor of:

(a) a minor traffic violation as listed in Title 41, Chapter 6a, Traffic Code, except:

(i) a minor traffic violation that includes driving under the influence or reckless driving, as listed in Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; or

(ii) a minor traffic violation that results in the bodily harm of another person; or

(b) a violation of any local ordinance related to:

(i) animal licensing;

(ii) business licensing;

(iii) construction;

(iv) dog at large;

(v) land use;

(vi) littering;

(vii) noise;

(viii) park access hours;

(ix) storm water;

(x) utilities;

(xi) yard sales; or

(xii) zoning.

(e) The committee may not review the following misdemeanors:

(i) violation of local ordinances related to animal licenses, littering, dogs at large, noise, yard sales, land uses, storm water, utilities, business licenses, zoning, building, construction, and park or access hours;

(ii) misdemeanors listed in Title 41, Chapter 6a, Traffic Codes except Title 41 Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving, and Sections 41-6a-401.3, 41-6a-401.5, 41-6a-401.7, 41-6a-1716, 41-6a-1717, and 41-6a-1803;

(iii) misdemeanors listed in Sections 76-10-2, 76-10-21, and 76-10-27, and Subsection 76-10-105;

(iv) failure to appear, a misdemeanor charge under Section 77-7-22;

(v) a misdemeanor resulting from unauthorized hunting under Section 23-20-3;

(vi) a misdemeanor resulting from a failure to have the appropriate fishing license under Section 23-19-1;

(vii) a misdemeanor resulting from a failure to comply with the boating safety requirements outlined in Section 73-18-8;

(viii) a misdemeanor resulting from failure to have a business license as required under Section 76-8-410; and

(ix) juvenile misdemeanors except those listed in Subsection 26B-2-120(5)(a) unless there is a pattern of at least three or more similar offenses within the five years before to the submission of the application; and

] ((d)7) ~~[The office]~~OBP shall ~~[refer an applicant to the committee]~~conduct a comprehensive review upon learning of a potentially disqualifying ~~[offense or]~~criminal or non-criminal finding described in Subsection 26B-2-120(6) if ~~[#]~~the criminal or non-criminal finding was not previously considered by~~[-the committee.]~~ OBP.

((f)8) ~~[The office]~~OBP may provide the status of an application to a provider representative~~[screening agent]~~ but may not share the specific criminal or non-criminal findings or history of findings~~[history or abuse or neglect history or findings]~~.

R501-14-8. Comprehensive Review~~[Committee]~~.

~~_____ (1) The director of the following Department of Health and Human Services divisions and offices shall appoint at least one member and one alternate to serve on the committee:~~

- ~~_____ (a) the Executive Director's Office;~~
- ~~_____ (b) the Division of Aging and Adult Services;~~
- ~~_____ (c) the Division of Child and Family Services;~~
- ~~_____ (d) the Division of Juvenile Justice Youth Services;~~
- ~~_____ (e) the Division of Services for People with Disabilities;~~
- ~~_____ (f) the Office of Substance Use and Mental Health; and~~
- ~~_____ (g) the office.~~

~~_____ (2) The department directors shall appoint professional staff members and alternates to the committee who are familiar with the programs they represent.~~

~~_____ (3) The appointed office member shall chair the committee as a non-voting member.~~

~~_____ (4) Four voting members shall constitute a quorum.~~

] ~~([5]1) [The committee]OBP shall conduct a comprehensive review of:~~

- ~~(a) an applicant's background check[screening] application;~~
- ~~(b) any record[s] from an open court case[s] or conviction[s] not automatically denied in Subsection 26B-2-120(5)(a);~~
- ~~(c) any outstanding warrant[s] for [the]a criminal or non-criminal finding [offenses-]that requires a [committee]comprehensive review;~~

- ~~(d) any non-criminal finding[abuse, neglect or exploitation records];~~
- ~~(e) any applicant-submitted out-of-state child abuse and neglect registry record[s from other states]; and~~
- ~~(f) any related circumstance[s;] in accordance with Subsection 26B-2-120(6).~~

~~([6]2) [The committee]OBP may not conduct a comprehensive review of an applicant's background check[screening] application if:~~

- ~~(a) the applicant has been previously reviewed and approved by [the committee]OBP for the same employment [request type]clearance, even if the applicant has not been employed in any human services program for the past [90]180 days or [more]longer; and~~
- ~~(b) the applicant has no new criminal or non-criminal findings. [charges or findings of abuse or neglect.~~

R501-14-9. Comprehensive Review.

] ~~([1]3)(a) [The committee]OBP may not review a background check[screening] application without [the office]OBP first sending the applicant a written notice that [the office]OBP is investigating the applicant's criminal or non-criminal history. [or findings of abuse, neglect, or exploitation.]~~

~~(b) The applicant may submit any written statement or record that [the committee]OBP may need[s] to make a determination of the risk of harm, including any:~~

- ~~_____ (i) original police reports;~~
- ~~_____ (ii) investigatory and charging documents;~~
- ~~_____ (iii) proof of any compliance with court orders;~~
- ~~_____ (iv) any evidence of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed;~~

- ~~_____ (v) personal statements;~~
- ~~_____ (vi) reference letters specific to the potential risk of harm; and~~
- ~~_____ (vii) any other information that specifically addresses the criteria established in Subsection 26B-2-120(7)(a)(vii).~~

~~_____ (i) evidence of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed, as established in Subsection 26B-2-120(7);~~

- ~~_____ (ii) investigatory and charging document;~~
- ~~_____ (iii) original police report;~~
- ~~_____ (iv) personal statement;~~
- ~~_____ (v) proof of compliance with a court order; and~~
- ~~_____ (vi) reference letter specific to the potential risk of harm.~~

~~(c) [The committee]OBP shall evaluate information using the criteria established by Subsection 26B-2-120(7)(a).~~

~~(d) The applicant shall submit any written statement[s] or record[s] within 15 calendar days of the written notice unless an extension is requested by the provider representative[screening agent] or applicant and granted by [the office]OBP.~~

~~([2]4) [The office]OBP shall gather the information described in Subsection 26B-2-120(7)(a)(vii) from the applicant. [and provide any available information to the committee.]~~

~~([3]5) [The office]OBP may request additional information from any available source, including:~~

- ~~(a) the applicant;~~
- ~~(b) any victim[s];~~
- ~~(c) any witness[es];~~
- ~~(d) any investigator[s];~~
- ~~(e) the criminal justice system;~~
- ~~(f) any law enforcement agency[ies];~~
- ~~(g) the courts; and~~
- ~~(h) any others deemed necessary for the comprehensive evaluation of an application.~~

([4]6) An applicant with a denied application may re-apply for a background check[submit their application] to [the office]OBP after [six months]two years from the date of a not eligible determination or upon a substantial change to circumstances.

R501-14-[10]9. [Comprehensive Review] Determination.

(1)(a) [The committee]OBP shall evaluate [the]any application[s] and information provided by the applicant [to the committee by the office]to determine if an applicant poses a risk of harm to any child[ren] or vulnerable adult[s].

(b) In assessing the risk of harm, [the committee]OBP shall consider the type of employment the applicant is seeking and the type of license under which the applicant seeks employment.

(2)(a) [The office]OBP may transfer a previously reviewed and cleared background check[screening] approval without further[committee] review to another human services program when providing the same service under the same statutory background check[screening] requirements.

(b) [The committee]OBP shall re[-]consider any previously cleared or denied background check[screenings] when the applicant requires a new clearance for a new type of employment.[

_____ (3) The committee members shall conduct an individual review of each application presented.

_____ (4)(a) The committee shall recommend approval of the background screening of an applicant only after a simple majority of the voting members of the committee determines that approval will not likely create a risk of harm to a child or vulnerable adult in the request type for which they applied.]

_____ (3) OBP shall deny the background check of an applicant when OBP finds that approval would likely create a risk of harm to the specific population the applicant would serve.[

_____ (b) The committee shall recommend denial of the background screening of an applicant when it finds that approval will likely create a risk of harm to the specific population that the applicant will serve.

_____ (c) Each voting member shall independently document how the voting member reached the conclusion that the individual does or does not pose a risk of harm to the population the applicant is applying to serve.

_____ (5)(a) The applicant shall provide additional information requested by the Office within 30 days of the initial request.

_____ (b) The committee may consider and weigh only what was submitted to the committee and may only consider additional information that is publicly available in making the committee's evaluation of the risk of harm to clients.

_____ (c) The committee may not deny an application due to lack of information.

_____ (6) The office director or designee shall make the final determination to approve or deny the application after considering the comprehensive review committee's recommendation.

_____ (7)(a) The provider may not allow an applicant whose background screening is denied to have any supervised or unsupervised direct access to clients unless:

_____ (i) the determination is overturned by an administrative hearing or the office director; or

_____ (ii) the office approves a subsequent application.

] (b)4 The provider representative shall ensure an applicant initiating an appeal of a denied application works under direct supervision until there is a [disposition]determination made regarding the appeal[.]when:

_____ (a) OBP approves the application based on a comprehensive review; or

_____ (b) the determination is overturned by an administrative hearing.

R501-14-1[4]0. Background [Screening]Check Approval Transfer or Concurrent Use.

(1)(a) An applicant is eligible to have a [their]current background check[screening] approval shared with, or transferred to, another human services program only if:

_____ (i) the applicant is enrolled in the [FBI Rap Back System]rapback system; and

_____ (ii) the human services program background check[screening] was processed under the same statutory authority as the original background check[screening].

_____ (b) Clearance transfers are allowed;

_____ (i) among the same [request types]level of clearance; or

_____ (ii) from higher-level clearance to lower[-]level clearance[-only].

_____ (c) New clearances and [committee]comprehensive review, if applicable, are required when moving from a lower-level [request type]clearance to a higher-level [request type]clearance.

(2)(a) An applicant who seeks to have [their]that applicant's current background check[screening] shared with, or transferred to, another human services program shall complete a background check[screening] application through a provider representative[screening agent] of the new program.

(b) An applicant may not transfer an eligible clearance from a non-[youth residential]congregate care program to a [youth residential]congregate care program, including a foster home, adoptive home, or certified home, without a subsequent review under the new [request type]level of clearance.

(c) An applicant shall submit out-of-state registry records for a transfer from a non-[youth residential]congregate care program to a [youth residential]congregate care program when the applicant has resided in another state within five years of the date the application was submitted.

(d) An applicant may transfer an eligible clearance from a [youth residential]congregate care program to a non-[youth residential]congregate care program.

(3) The provider shall ensure [the]an applicant is directly supervised until the applicant's status in [the online system]DACS reflects eligible or eligible for hire.

R501-14-1[2]1. Post-Approval Responsibilities.

(1) An applicant ~~[and]or provider representative[screening agent]~~ shall immediately notify ~~[the office]OBP [at cbsunit@utah.gov]~~ if the applicant ~~has any new criminal or non-criminal finding.;~~

~~_____ (a) is charged with any felony, misdemeanor, or infraction; or~~

~~_____ (b) has a new finding in the LIS, juvenile court records, or the DAAS statewide database after a background screening application is approved.]~~

(2) ~~[The office]OBP~~ shall issue a new supervised only determination as ~~[listed]described~~ in Subsection R501-14-2([9]11) until a disposition on the case is reached if an eligible applicant~~;~~ has any new criminal or non-criminal finding.

~~_____ (a) is charged with any felony, misdemeanor, or infraction listed in Subsection 26B-2-120(5)(a); or~~

~~_____ (b) has a new finding in the LIS or the DAAS statewide database.]~~

(3) ~~[The office]OBP~~ may revoke ~~[the]a~~ background check[screening] approval of an applicant if:

~~_____ (a) the applicant [who]is convicted of a felony, misdemeanor, or infraction listed in Subsection 26B-2-120(5)(a)[;]; and~~

~~_____ (b) [if a]OBP granted the background check[screening] approval [was granted by the office]while the conviction was pending.~~

(4)(a) ~~[The]A provider representative[screening agent]~~ shall notify ~~[the office]OBP~~ of ~~[the]each~~ termination of ~~[each]an~~ employee with fingerprints retained under Section 26B-2-120.

(b) ~~[The office]OBP~~ shall report each termination to the Department of Public Safety within ~~[90]180~~ days~~;~~ if the ~~[individual]applicant~~ has not transferred the clearance to a transfer-eligible program within that time frame.

R501-14-1[3]2. Confidentiality.

(1)(a) ~~[The office]OBP~~ may disclose registry and criminal background check[screening] information details only to the applicant in accordance with Section 63G-2-202.

~~[(4)](b) [The office]OBP~~ may grant the provider representative[screening agent] and department auditor with oversight of the licensed program minimal, read-only access to ~~[the online system]DACS~~ solely to see an application determination[s] with no additional case details viewable.

(2) ~~[The office]OBP~~ may not transfer or share background check[screening] information between human services programs, except as described in Section R501-14-1[+]0.

(3) The provider representative~~[screening agent]~~ or ~~[office]OBP~~ representative may, in accordance with Subsection 53-10-108(4), provide the approval letter generated by ~~[the online system]DACS~~~~[-in accordance with Subsection 53-10-108(4);]~~ to:

~~_____ (a) the person who is the subject of the approval;~~

~~_____ (b) the court;~~

~~_____ (c) another licensed child placing agency; or~~

~~_____ (d) the attorney for the adoptive parents.~~

~~_____ (a) another licensed child placing agency;~~

~~_____ (b) the attorney for the adoptive parents;~~

~~_____ (c) the court; or~~

~~_____ (d) the person who is the subject of the approval.~~

R501-14-1[4]3. Retention of Background [Screening]Check Information.

~~[The office]OBP~~ shall ~~[retain]keep~~ the background check[screening] information of each applicant~~[associated individuals]~~ in ~~[the online system]DACS~~ for a minimum of seven years after the termination of the ~~[individual's]applicant's~~ association with the ~~[program]licensee, certification, or contract.~~

R501-14-1[5]4. Expungement.

An applicant whose background check[screening] application is denied due to the applicant's criminal record may submit a new application with an official copy of an order of expungement.

R501-14-1[6]5. Administrative Hearing.

A notice of agency action issued by the ~~[office]OBP~~ director or designee that denies the applicant's background check[screening] application or revokes the applicant's background check[screening] approval shall inform the applicant of the right to appeal in accordance with Rule R497-100 and Section 63G-4-~~201.~~

~~R501-14-17. Exemption.~~

~~_____ (1)(a) Subsection 26B-2-120(12) provides an exemption for a substance abuse program providing services to adults only.~~

~~_____ (b) To claim exemption, an applicant, human services program, or department contractor may request this exemption on a form provided by the office, and demonstrate that they meet exemption criteria.~~

~~_____ (c) The office shall make a final determination regarding exemption approval or denial.~~

~~_____ (2) The substance abuse program exemption does not apply to program directors and members as member is defined in Subsection 26B-2-105(2)(a).~~

~~R501-14-18. Automatic Denial Exemption.~~

~~(1)(a) A provider serving only adults whose only impairment is a mental health diagnosis, with or without co-occurring substance use disorder, are exempt from the automatic denial of Subsection 26B-2-120(5)(a) and are entitled instead to a committee review in accordance with Subsection 26B-2-120(5)(b).~~

~~(b) A provider claiming program automatic denial exemption shall identify on their program application how they meet the exemption criteria.~~

~~(c) The office shall make the final determination regarding exemption.~~

~~(2) A provider approved for program-exempted screening processes listed in this section shall inform the office immediately upon any program changes that would make them ineligible for the exemption.]~~

R501-14-16. Compliance.

(1) Each provider shall ensure compliance with this rule.

(2) If OBP determines credible evidence exists that an applicant has any criminal or non-criminal finding that would be excluded under Section 26B-2-120, OBP may take action to protect the health and safety of clients.

(3) Any provider found in noncompliance with any rule or statute governing OBP may be subject to the penalties in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

KEY: licensing, background screening, background check, fingerprinting, human services

Date of Last Change: ~~[January 22, 2024]~~2025

Notice of Continuation: September 1, 2020

Authorizing, and Implemented or Interpreted Law: ~~[26B-2-104;]~~ 26B-2-120; 26B-2-121; 26B-2-122

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Repeal		
Rule or Section Number:	R539-11	Filing ID: 57151

Agency Information		
1. Title catchline:	Health and Human Services, Services for People with Disabilities	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 145145	
City, state and zip:	Salt Lake City, UT 84114-5145	
Contact persons:		
Name:	Phone:	Email:
Bruce Quaglia	435-669-4855	bquaglia@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:	
R539-11. Strategy Report Advisory Committee	
3. Purpose of the new rule or reason for the change:	
On 12/13/2024, the State of Utah formally exited the settlement agreement in the lawsuit Christensen et al., v Miner et al., ending the requirement for the existence of the Strategy Report Advisory Committee and this rule that established it.	
Therefore, the Department of Health and Human Services (Department) determined it is necessary to repeal this rule.	
4. Summary of the new rule or change:	
This rule is repealed in its entirety.	

Fiscal Information**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

This repeal has no anticipated fiscal impact to the state budget, as the Strategy Report Advisory Committee did not generate a cost or savings for the state when it existed and therefore will not generate a cost or savings for the state in its dissolution.

B) Local governments:

This repeal has no anticipated fiscal impact to local governments, as this rule does not apply to local governments.

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

This repeal has no anticipated fiscal impact to small businesses, as this rule does not apply to small businesses.

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

This repeal has no anticipated fiscal impact to non-small businesses, as this rule does not apply to non-small businesses.

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

This repeal has no anticipated fiscal impact for other persons, as the Strategy Report Advisory Committee did not generate a cost or savings for committee members when it existed and therefore will not generate a cost or savings for former committee members in its dissolution.

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

This repeal has no anticipated fiscal impact for compliance costs for affected persons, as the Strategy Report Advisory Committee did not generate a cost for the state or for committee members when it existed and therefore will not generate a cost for the state or former committee members in its dissolution.

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

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

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

The Executive Director of the Department of Health and 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-6-402

Section 26B-6-403

Public Notice Information

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

A) Comments will be accepted until:

06/17/2025

9. This rule change MAY become effective on:

06/24/2025

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:**

Tracy S. Gruber, Executive Director

Date:

04/29/2025

R539. Health and Human Services, Services for People with Disabilities.**[R539-11. Strategy Report Advisory Committee.****R539-11-1. Purpose and Authority.**

_____ (1) The purpose of this rule is to establish an advisory committee as required by the Christensen v. Miner Settlement Agreement, resolving Case No. 2:18CV37DAK in the United States District Court for the District of Utah, as approved by Judge Dale A. Kimball on December 19, 2019.

_____ (2) The Strategy Report Advisory Committee develops and proposes policy and practice to further reduce the intermediate care facility population.

_____ (3) This rule is authorized by Subsections 26B-6-403(2)(b), 26B-6-403(2)(n), and 26B-6-403(2)(r).

R539-11-2. Definitions.

_____ (1) Terms used in this rule are defined in Sections 26B-6-401, R539-1-3, and R414-510.

_____ (2) "Committee" means the Strategy Report Advisory Committee.

_____ (3) "HCBS" means home and community-based services. Home and community-based services are long-term services and supports provided to individuals in their homes or other community settings that satisfy the requirements of 42 CFR Subsection 441.301(e)(4).

_____ (4) "Large Intermediate Care Facility" means a facility with a bed count of 16 or more.

_____ (5) "Medium Intermediate Care Facility" means a facility with a bed count of more than six and less than 16.

_____ (6) "Settlement Agreement" means the Christensen v. Miner Settlement Agreement.

_____ (7) "Small Intermediate Care Facility" means a facility with a bed count of six or fewer.

R539-11-3. Membership.

_____ (1) The committee shall include:

_____ (a) a representative of the division;

_____ (b) a representative of the Utah Department of Health and Human Services Division of Integrated Healthcare;

_____ (c) a representative of the Disability Law Center;

_____ (d) at least one resident of an intermediate care facility;

_____ (e) at least one individual living in the community;

_____ (f) at least one family member of a resident of an intermediate care facility;

_____ (g) at least one family member of an individual living in the community;

_____ (h) a large intermediate care facility provider;

_____ (i) a medium intermediate care facility provider;

_____ (j) an approved provider of an HCBS residential service;

_____ (k) at least one approved provider of an HCBS supported living service;

_____ (l) at least one approved provider of HCBS support coordination;

_____ (m) a representative of the Utah Parent Center; and

_____ (n) a representative of the Center for Persons with Disabilities at Utah State University.

_____ (2) Subsection R539-11-3(1) lists the minimum representation required for committee membership.

R539-11-4. Duties.

_____ (1) The committee shall operate in a manner that ensures information, work product, and activity are accessible to each member.

_____ (2) The committee shall identify any barrier to HCBS for a resident or an individual at risk of residing in an intermediate care facility.

_____ (3) The committee shall recommend policy and practice to further reduce the intermediate care facility population.

NOTICES OF PROPOSED RULES

- ~~(a) A recommendation may include a change to legislative or administrative policy and practice.~~
- ~~(b) The committee shall address each of the following:~~
 - ~~(i) strategy to further reduce the number of licensed intermediate care facilities;~~
 - ~~(ii) strategy to further reduce the number of licensed intermediate care facility beds;~~
 - ~~(iii) strategy to further reduce the number of large and medium size intermediate care facilities;~~
 - ~~(iv) strategy to shift to greater reliance on small intermediate care facilities;~~
 - ~~(v) strategy to ensure the competency of intermediate care facility staff and appropriate staffing ratio;~~
 - ~~(vi) strategy to increase funding and any other available resource for HCBS; and~~
 - ~~(vii) strategy to remove a barrier to HCBS.~~
- ~~(c) The committee may address any other topic that further reduces the intermediate care facility population.~~
- ~~(d) The committee may consider data and information that includes:~~
 - ~~(i) data and information developed as a result of the Settlement Agreement;~~
 - ~~(ii) information about economic development; and~~
 - ~~(iii) information about a disability population that resides in any other institutional setting.~~

R539-11-5. Report.

- ~~(1) The committee shall prepare a written report on or before the termination date of the Settlement Agreement.~~
- ~~(2) The report shall include each recommendation for policy and practice that further reduces the intermediate care facility population over a ten year period.~~

R539-11-6. Termination.

- ~~(1) Each duty and requirement of the committee shall end on the Settlement Agreement termination date.~~
- ~~(2) The committee shall stop meeting after the Settlement Agreement termination date.~~

KEY: ~~disabilities, intermediate care facility~~

Date of Last Change: ~~November 5, 2023~~

Authorizing, and Implemented or Interpreted Law: ~~26B-6-403~~

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: New

Rule or Section Number:

R539-13

Filing ID: 57117

Agency Information

1. Title catchline:	Health and Human Services, Services for People with Disabilities	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state	Salt Lake City, UT	
Mailing address:	PO Box 145145	
City, state and zip:	Salt Lake City, UT 84114-5145	
Contact persons:		
Name:	Phone:	Email:
Bruce Quaglia	435-669-4855	bquaglia@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:
R539-13. Division Definitions
3. Purpose of the new rule or reason for the change:
Due to changes in other rules under Title R539, the Division of Services for People with Disabilities (Division) conducted an internal review and determined it is necessary to standardize the location of definitions that appear across multiple rules under Title R539 into this new rule.

4. Summary of the new rule or change:

This new rule, Rule R539-13, contains common definitions for rules under Title R539. The Division anticipates filing nonsubstantive changes for each rule that refers to definitions found in this new rule upon Rule R539-13 being made effective.

Fiscal Information**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

There is no anticipated fiscal impact to the state budget as a result of this new rule, as this rule is being used to reorganize and clarify existing definitions that are currently found throughout Title R539, which does not incur any cost to the state.

B) Local governments:

There is no anticipated fiscal impact to local governments, as this rule does not apply to local governments.

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

There is no anticipated fiscal impact to small businesses, as this rule does not apply to small businesses.

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

There is no anticipated fiscal impact to non-small businesses, as this rule does not apply to non-small businesses.

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

There is no anticipated fiscal impact to other persons, as this rule does not apply to individuals or individual entities.

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

There are no anticipated compliance costs for affected persons, as this rule is being used to reorganize and clarify existing definitions that are currently found throughout Title R539, which does not incur any cost to the state.

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

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

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

The Executive Director of the Department of Health and 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-6-402

Section 26B-6-403

Incorporations by Reference Information**7. Incorporations by Reference:****A) This rule adds or updates the following title of materials incorporated by references:**

Official Title of Materials Incorporated (from title page)	Diagnostic and Statistical Manual of Mental Disorders: Intellectual Disability
Publisher	American Psychiatric Association
Issue Date	2013
Issue or Version	Version 5

Public Notice Information

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

A) Comments will be accepted until:

06/17/2025

9. This rule change MAY become effective on:

06/24/2025

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:	Tracy S. Gruber, Executive Director	Date:	04/22/2025
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R539. Health and Human Services, Services for People with Disabilities.**R539-13. Division Definitions.****R539-13-1. Authority and Purpose.**

(1) Sections 26B-6-402 and 26B-6-403 authorize this rule and give the division responsibility for the administration of services and supports for persons with disabilities.

(2) This rule provides common definitions applicable to Title R539.

R539-13-2. Definitions.

Terms used throughout Title R539 are defined as follows:

(1) "Agency action" means the same as described in Section 63G-4-102.

(2) "Applicant" means an individual applying for a determination of eligibility.

(3) "Attendant care services" means individually tailored assistance, skill building, supervision, and support for a person to live as independently as possible in the person's own home or family home.

(4) "Behavior intervention" means a specific technique or procedure designed to:

(a) decrease unwanted target behavior and increase desirable target behavior;

(b) ensure the safety of the person or any other person;

(c) reduce significant property damage; or

(d) teach a skill.

(5) "Behavior support plan" means a written plan of instruction designed to address a person's specific unwanted target behavior and teach a desirable target behavior.

(6) "Brain injury" means the same as defined in Section 26B-6-401.

(7)(a) "Budget limit" means the maximum allowable budget for any self-administered service and caregiver compensation service described in Rule R539-16.

- (b) This budget limit is published on the division website in the Rate Master document.
- (8) "Caregiver" means a person's parent, step-parent, legal guardian, or spouse who delivers supported living or attendant care services to the person through the caregiver compensation service delivery method.
- (9) "Caregiver compensation service delivery method" means a service delivery method to provide supported living or attendant care services that allows a caregiver to be paid to provide extraordinary care to a person.
- (10) "Department" means the Department of Health and Human Services.
- (11) "Director" means the director of the Division of Services for People with Disabilities, as defined in Section 26B-6-401.
- (12) "Division" means the Division of Services for People with Disabilities, as defined in Section 26B-6-401.
- (13) "Employee of the division" means a staff member employed by the division.
- (14) "Extraordinary care" means the same as defined in Section R414-523-3.
- (15) "Fiscal agent" means an individual or entity contracted by the division to perform fiscal, legal, and management duties.
- (16) "Guardian" means:
- (a) the parent of a minor child; or
 - (b) someone appointed by a court with the legal authority to make an informed decision on behalf of an individual deemed incompetent in an area of that individual's life.
- (17)(a) "HCBS waiver" or "waiver" means Medicaid home and community-based services, which are long term services and support provided to an individual in the individual's home or another community setting, authorized under Section 1915(c) of the Social Security Act and approved for Utah by the Centers for Medicare and Medicaid Services.
- (b) An HCBS waiver includes the:
- (i) Acquired Brain Injury Waiver;
 - (ii) Community Supports Waiver;
 - (iii) Community Transitions Waiver;
 - (iv) Limited Supports Waiver; and
 - (v) Physical Disabilities Waiver.
- (18) "Hearing request" means a written request for an administrative hearing.
- (19) "Person" means an eligible individual:
- (a) receiving a division service; or
 - (b) on the waiting list for division services.
- (20) "Person-centered budget" means an annual budget that:
- (a) reflects a person's assessed needs and preferences; and
 - (b) conforms to the services and budget amounts set by the Request for Services (RFS) Committee.
- (21)(a) "Person-centered planning" or "PCP" means an individualized approach to planning services and supports to help a person achieve the person's goals.
- (b) PCP incorporates the principles of inclusion, informed choice, integration, person-centered practice, person-centered thinking, and self-determination.
- (22) "Person-centered support plan" or "PCSP" means the support plan developed through the PCP process that complies with 42 CFR 441-301(c)(2).
- (23) "Provider" means an agency or business contracted with the division to provide services.
- (24) "Provider human rights committee" means a group established and maintained by the provider to provide a recommendation to a person's PCSP regarding the person's human rights.
- (25) "Provider-based" means a service delivery model for a person to receive a service included in the PCSP from a provider.
- (26)(a) "Request for services" or "RFS" means a process integrated into Utah System for Tracking Eligibility, Planning, and Services (USTEPS) that facilitates the creation of a person-centered budget through an initial budget and any budget adjustment by submitting:
- (i) proposed service codes, units, and rates;
 - (ii) designated start and end dates; and
 - (iii) evidence of need to the RFS Committee for review.
- (b) The process is described in Sections R539-12-3 through R539-12-6.
- (27) "Resident" means the same as defined in Section 26B-6-401.
- (28) "SAS employee agreement" means a binding agreement between the SAS employer and SAS employee that establishes the terms and conditions of employment.
- (29) "SAS employer agreement" means a binding agreement between the division, a person, and the SAS employer that establishes the required terms and conditions of participation in the self-administered services program.
- (30)(a) "Self-administered services" or "SAS" means a service delivery model where the person or the person's designee is the employer.
- (b) The employer is responsible to manage the budget and hire employees to administer certain services to the person.
- (31) "Self-administered services employee" or "SAS employee" means an individual hired to provide services to a person through the SAS delivery model.
- (32) "Self-administered services employer" or "SAS employer" is a person, or an individual designated by the person, responsible for the administration of the person's SAS.
- (33) "State match rate" means the state-funded portion of a person's assessed needs as determined through the person-centered planning process.

NOTICES OF PROPOSED RULES

(34) "State resident" means an applicant, person, or guardian who voluntarily lives in the state with the intention of becoming a resident of the state, as described in Section R414-302-4.

(35) "Substantial functional limitation" means the same as defined in Subsection 26B-6-401(9)(a)(iii) and includes areas of major life activity, as described in Subsections (34)(a) through (34)(g), for determining eligibility for division services.

(a) "Capacity for independent living" means:

(i) a minor applicant, at least seven years of age, cannot:

(A) cross a street safely;

(B) locate and use a telephone; or

(C) understand that it is not safe to accept food, money, or transportation from a stranger; or

(ii) an adult applicant lacks basic skills in the areas of shopping, preparing food, housekeeping, or paying a bill.

(b) "Economic self-sufficiency" means an adult applicant:

(i) cannot work more than 20 hours a week or is paid less than minimum wage without employment support; and

(ii) receives disability benefits.

(c) "Learning" means an applicant has a valid diagnosis of intellectual disability based on the criteria found in the Diagnostic and Statistical Manual of Mental Disorders, version 5 (2013), incorporated by reference in this rule.

(d) "Mobility" means an applicant:

(i) cannot self-evacuate from a building during an emergency without an assistive device; and

(ii) requires the use of an assistive device for mobility.

(e) "Receptive and expressive language" means an applicant:

(i) cannot follow a two-step instruction;

(ii) does not demonstrate an understanding of requests;

(iii) lacks functional communication skills; or

(iv) requires the use of an assistive device to communicate.

(f) "Self-care" means an applicant requires assistance, training, or supervision with eating, dressing, grooming, bathing, or toileting.

(g) "Self-direction" means an applicant is:

(i) a minor, at least seven years of age, significantly at risk in making an age-appropriate decision;

(ii) a significant danger to self or any other individual without supervision;

(iii) declared legally incompetent; or

(iv) unable to provide informed consent for financial matters, habilitative care, legal matters, medical care, personal safety, or residential matters.

(36) "Support" means required assistance for any portion of a task that allows a person to:

(a) independently complete any other portion of the task; or

(b) assume increasingly greater responsibility for performing the task independently.

(37)(a) "Support coordinator" means an employee of the division or an individual contracted with the division who assists with:

(i) assessing the need of a person receiving division funding;

(ii) completing written documentation of support;

(iii) developing a service and support plan for a person receiving division funding;

(iv) monitoring the appropriate spending of a person's annual budget;

(v) monitoring the health and welfare of a person; and

(vi) monitoring the quality of each service used by a person receiving division funding.

(b) If a person receives waiver services, a support coordinator shall assure compliance with each waiver program requirement.

(38) "Supported living services" means one-on-one assistance, skills building, and supervision to a person for maintaining the health and safety of the person and promoting an independent, integrated, and self-determined life.

(39) "Team" means the person-centered support team made up of team members.

(40)(a) "Team member" means any member of a person's circle of support who participates in the planning and delivery of any service and support with the person.

(b) A team member may include:

(i) the person applying for or receiving a service;

(ii) the parent;

(iii) the guardian;

(iv) the support coordinator;

(v) a friend of the person; and

(vi) any other professional and provider staff working with the person.

KEY: human services, disabilities

Date of Last Change: 2025

Authorizing, and Implemented or Interpreted Law: 26B-6-402; 26B-6-403

NOTICE OF SUBSTANTIVE CHANGE**TYPE OF FILING:** Amendment**Rule or Section Number:****R547-11****Filing ID: 57154****Agency Information**

1. Title catchline:	Health and Human Services, Juvenile Justice and Youth Services	
Building:	Multi-Agency State Office Building	
Street address:	195 N 1950 W	
City, state	Salt Lake City, UT	
Mailing address:	195 N 1950 W, 3rd Floor	
City, state and zip:	Salt Lake City, UT	
Contact persons:		
Name:	Phone:	Email:
Brett M. Peterson	385-394-4407	brett@utah.gov
Reg Garff	801-602-6261	rgarff@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R547-11. Guidelines for the Transfer to the Department of Corrections of a Minor Provisionally Housed in a Juvenile Justice Services Secure Care Facility
3. Purpose of the new rule or reason for the change:
Upon internal review, it was determined that this rule needed to be updated to comply with Section 80-6-507, which allows Juvenile Justice and Youth Services (JJYS) to provisionally house a minor sentenced in district court up to age 25. The update also enables the Director of JJYS to transfer minors provisionally housed to the prison when overcrowding occurs in JJYS secure facilities, thus making room for youth under jurisdiction of the juvenile system in secure care facilities.
4. Summary of the new rule or change:
This filing updates the authority of JJYS to provisionally house youth through 25 years of age. It also allows the Director to move youth provisionally housed by JJYS to a Department of Corrections facility when conditions of overcrowding occur in JJYS secure care facility. Additionally, this filing makes style and formatting changes to comply with the Rulewriting Manual for Utah and align this rule with other rules under the Department of Health and Human Services.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated cost or savings to the state budget as a result of this filing. Existing processes within JJYS and the Department of Corrections already account for transfers referred to in this rule. This filing does not alter the cost of those transfers but, rather, allows greater flexibility for the timing of when those transfers may occur.
B) Local governments:
This rule change is not expected to have a fiscal impact on local government revenues or expenditures as it applies only to state entities.

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

This rule change is not expected to have a fiscal impact on small businesses revenues or expenditures as it applies only to state entities.

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

This rule change is not expected to have a fiscal impact on non-small businesses revenues or expenditures as it applies only to state entities.

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

This rule change is not expected to have a fiscal impact on other persons revenues or expenditures as it applies only to state entities.

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

There are no anticipated compliance costs for affected persons, as any transfer cost to the state budget will not change as a result of this filing. This filing allows greater flexibility for the timing of when transfers may occur.

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

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

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

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis.

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

Section 26B-1-202

Section 80-6-507

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:	06/17/2025
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9. This rule change MAY become effective on:	06/24/2025
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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:	04/29/2025
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R547. Health and Human Services, Juvenile Justice and Youth Services.

R547-11. ~~[Guidelines for the]~~Transfer ~~[to the Department of Corrections]~~ of a Minor Provisionally Housed in ~~[a Juvenile Justice Services]~~Secure Care ~~[Facility]~~to the Department of Corrections.

R547-11-1. ~~[Purpose and]~~Authority and Purpose.

(1) Section 26B-1-202~~[62A-1-111]~~ authorizes the Department of Health and Human Services to adopt administrative rules. Section 80-6-507 directs the Division of Juvenile Justice and Youth Services to adopt procedures by administrative rule ~~[procedures]~~ for the transfer of a minor~~[:] provisionally housed in a secure care facility to the physical custody of the Department of Corrections.~~

(2) This rule provides oversight on the transfer of a minor provisionally housed in a division facility to a Department of Corrections facility. Transfer of physical custody to the Department of Corrections shall occur:

(a) when the minor reaches 25 years of age while in a division facility;

(b) prior to the minor reaching 25 years of age, if the division determines that housing the minor in a secure care facility presents unreasonable risk to others; or

(c) when being housed in a secure care facility is not in the best interest of the minor.~~[Pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, this rule establishes guidelines for the transfer, to the physical custody of the Utah Department of Corrections, of a minor who has previously been provisionally housed in a Division of Juvenile Justice Services secure care facility, with transfer to occur when:~~

~~_____ (3) the minor reaches 21 years of age while in a Division facility;~~

~~_____ (4) continuing to house the minor in a Division facility presents unreasonable risk to others; or~~

~~_____ (5) continuing to house the minor in a Division facility is determined not to be in the best interest of the minor.]~~

R547-11-2. Definitions.

(1) "Division" means the Division of Juvenile Justice and Youth Services.

~~_____ (2) "Minor" [is] means the same as defined in Section 80-6-501.~~

~~_____ (2) "Division" means the Division of Juvenile Justice Services]~~

~~_____ (3) "Secure care" means the same as defined in Subsection 80-1-102(72).["Division Facility" means a long-term secure care facility for juveniles operated by the Division.]~~

R547-11-3. General Rules.

(1)~~(a)~~ The ~~[D]~~division ~~[must]~~shall transfer physical custody of~~[to the custody of the Department of Corrections]~~ a minor who has been provisionally housed in secure care when the minor reaches ~~[reached the age of]~~25 years of age~~[21]~~, unless the minor was released earlier~~[and has not been paroled or otherwise released]~~ from incarceration by the Board of Pardons and Parole~~[, while provisionally housed in a Division facility].~~

~~_____ (b) The [D]division [must]shall complete [such]the transfer as soon as reasonably possible, but no[~~t~~]~~ later than six months after the minor reaches ~~[age 21]~~25 years of age.

~~(2)(a)~~ The ~~[D]~~division may transfer physical~~[to the]~~ custody of ~~[the]~~a minor to the ~~[Utah]~~Department of Corrections before the minor reaches 25 years of age~~[a minor who has been provisionally housed in a Division facility,]~~ if the division determines that ~~[:~~

~~_____ (a)~~ continuing to house the minor in a ~~[D]~~division facility;

~~_____ (i)~~ presents an unreasonable risk to others in the facility; or

~~_____ (ii)~~ is not in the best interest of the minor,~~[, which may include the following behaviors of the minor:]~~

~~_____ (b)~~ In determining that a minor presents an unreasonable risk to others in the facility, the division may consider the minor's history of any:

~~_____ (i)~~ physical~~[ly]~~ assault~~[ing]~~ of any other resident~~[s]~~, staff, or other person~~[s]~~ at the facility;

~~_____ (ii)~~ planning, coercing, or leading a physical assault~~[s]~~ by another resident~~[s]~~;

~~_____ (iii)~~ persistent~~[ly engaging in]~~ behavior that is disruptive to rehabilitative efforts within the facility;

~~_____ (iv)~~ ~~[engaging in a]~~pattern of behaviors ~~[which]~~that creates danger for another person~~[s]~~; or

~~_____ (v)~~ other factor the division determines is relevant.

~~_____ (b)~~ In determining whether provisional housing in secure care is not in the best interest of a minor, the division may consider~~[continuing to house the minor in a Division facility is not in the best interests of the minor, due to:]~~

~~_____ (i)~~ whether the division has exhaust~~[ing]~~ed all treatment resources available;

~~_____ (ii)~~ whether the minor has fail~~[ing]~~ed to show progress toward~~[in]~~ reducing risk;

~~_____ (iii)~~ ~~[being found to be]~~whether the minor is no longer amenable to treatment within the facility;~~[or]~~

NOTICES OF PROPOSED RULES

- (iv) ~~being~~ whether the minor would be better served by resources available if transferred out of the ~~the~~ division facility[-];
- (v) ~~whether overcrowding creates safety and security concerns for a minor as determined by the division director; or~~
- (vi) ~~any other factor the division determines is relevant.~~
- (3) The ~~the~~ division ~~the~~ director shall have final decision-making authority pursuant to this rule.

KEY: juveniles, juvenile corrections, juvenile transportation, minors

Date of Last Change: ~~March 4, 2022~~ 2025

Notice of Continuation: November 19, 2020

Authorizing, and Implemented or Interpreted Law: 62A-1-111; 63G-3; 80-6-507

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Repeal

Rule or Section Number:

R592-5

Filing ID: 57156

Agency Information

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

General Information

2. Rule or section catchline:
R592-5. Title Insurance Product or Service Approval for a Dual Licensed Title Licensee
3. Purpose of the new rule or reason for the change:
HB 23, passed during the 2025 General Session, repealed and reenacted Section 31A-2-405 to prohibit the dual licensing of an individual title licensee. Therefore, this rule is no longer necessary.
The Title and Escrow Commission approved this repeal in its 04/14/2025 meeting by a vote of 5 to 0.
4. Summary of the new rule or change:
The filing repeals this rule in its entirety.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated cost or savings to the state budget. Few, if any, individual title licensees held dual licenses. This change will not materially impact the Department of Insurance's licensing procedures.
B) Local governments:
There is no anticipated cost or savings to local governments. This rule did not apply to local governments.

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

There is no anticipated cost or savings to small businesses. Few, if any, individual title licensees held dual licenses.

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

There is no anticipated cost or savings to non-small businesses. This rule did 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**):

There is no anticipated cost or savings to any other persons. This rule did not apply to any other persons.

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

There are no compliance costs for any affected persons. This rule is being repealed.

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

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

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

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

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

Section 31A-2-404

Section 31A-2-405

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:**

06/17/2025

9. This rule change MAY become effective on:

06/24/2025

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:	Steve Gooch, Public Information Officer	Date:	04/29/2025
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R592. Insurance, Title and Escrow Commission.**~~R592-5. Title Insurance Product or Service Approval for a Dual Licensed Title Licensee.~~****~~R592-5-1. Authority.~~**

~~This rule is promulgated by the Title and Escrow Commission pursuant to Sections 31A-2-404 and 31A-2-405.~~

~~R592-5-2. Purpose and Scope.~~

- ~~(1) The purpose of this rule is to set forth requirements for a dual licensed title licensee to obtain:~~
- ~~(a) approval from the commissioner pursuant to Subsection 31A-2-405(2); or~~
- ~~(b) expedited approval from the Commission pursuant to Subsection 31A-2-405(3).~~
- ~~(2) This rule applies to a dual licensed title licensee and an applicant for a title insurance license or renewal of a title insurance license.~~

~~R592-5-3. Definitions.~~

~~Terms used in this rule are defined in Sections 31A-1-301 and 31A-2-402. Additional terms are defined as follows:~~

- ~~(1) "Dual licensed title licensee", as defined in Section 31A-2-402, does not mean:~~
- ~~(a) a title licensee who holds an inactive license under Subsections 31A-2-402(3)(b)(i), (ii) or (iii); or~~
- ~~(b) a title licensee who holds an education provider certificate.~~
- ~~(2) "Need for expedited approval" means a significant hardship to the buyer or seller in the transaction.~~
- ~~(3) "Principal" means a person from whom a dual licensee has received compensation for submitting a transaction under one or more of the licensee's dual licenses. Examples include a mortgage company, a real estate broker, an agency title insurance producer, a builder, or a developer.~~
- ~~(4) "Title insurance product" means the insuring, guaranteeing, or indemnifying of owners of real or personal property or the holders of liens or encumbrances on that property, or others interested in the property against loss or damage suffered by reason of liens or encumbrances upon, defects in, or the unmarketability of the title to the property, or invalidity or unenforceability of any liens or encumbrances on the property.~~
- ~~(5) "Title insurance service" has the same meaning as the definition of "escrow" found in Subsection 31A-1-301(61).~~

~~R592-5-4. Filing Requirements, Processes and Procedures.~~

- ~~(1) Only a dual licensed title licensee may file a request for approval for the provision of a title insurance product or service.~~
- ~~(2) A complete filing consists of a filing fee pursuant to Section 31A-3-103 and:~~
- ~~(a) a "Dual Licensee Request for Approval for the Provision of a Title Insurance Product or Service" form; or~~
- ~~(b) a "Dual Licensee Request for Expedited Approval for the Provision of a Title Insurance Product or Service" form.~~
- ~~(3) A filing to request approval of a "Dual Licensee Request for Approval for the Provision of a Title Insurance Product or Service" form must:~~
- ~~(a) be sent electronically to the commissioner via email to peforms.uid@utah.gov; and~~
- ~~(b) include credit card information in the payment section of the form.~~
- ~~(4) An expedited filing to request approval of a "Dual Licensee Request for Expedited Approval for the Provision of a Title Insurance Product or Service" form must:~~
- ~~(a) include a completed section 6, explaining the significant hardship to the buyer or seller, on the "Dual Licensee Request for Expedited Approval for the Provision of a Title Insurance Product or Service" form;~~
- ~~(b) be sent electronically to the Chair of the Commission via email to peforms.uid@utah.gov; and~~
- ~~(c) include credit card information in the payment section of the form.~~
- ~~(5) Approval or disapproval will be sent to the filer via return email.~~

~~R592-5-5. Severability.~~

~~If any provision of this rule, Rule R592-5, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.~~

~~KEY: title dual licensees~~

~~Date of Last Change: August 23, 2021~~

~~Notice of Continuation: September 12, 2022~~

~~Authorizing, and Implemented or Interpreted Law: 31A-2-404]~~

NOTICE OF SUBSTANTIVE CHANGE**TYPE OF FILING:** New**Rule or Section Number:****R650-306****Filing ID: 57158****Agency Information**

1. Title catchline:	Natural Resources, Outdoor Recreation	
Building:	DNR	
Street address:	1594 W North Temple, Suite 100	
City, state:	Salt Lake City, UT 84116	
Contact persons:		
Name:	Phone:	Email:
Ty Hunter	801-440-5106	tyhunter@utah.gov
Trevor Bird	801-538-2628	ttbird@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R650-306. Boating Grant Program
3. Purpose of the new rule or reason for the change:
Section 73-18-22.3 provides the Division of Outdoor Recreation (Division) shall administer the grants under this section pursuant to rules made, after notifying the Outdoor Adventure Commission, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
4. Summary of the new rule or change:
This rule governs procedures for Utah Boating Grant Program applications, eligibility, project selection, and reporting and reimbursement requirements.
This rule provides instructions for submitting a boat grant application, specifies entities eligible to receive a boating grant, specifies criteria an applicant must meet to receive a boating grant, and specifies the scoring system used to evaluate boating grant applications.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There are no anticipated costs or savings to the state budget. This rule sets out the processes and procedures necessary to the Division's administration of the Boating Grant program. The processes and procedures set out in this rule do not impose any costs or savings on the state budget over and above the costs imposed by Subsection 73-18-22.3(5), which provides "[t]he Division of Outdoor Recreation shall administer the grants under this section pursuant to rules made" in accordance with the requirements of the Utah Administrative Rulemaking Act.
This rule does not impose any costs or savings on entities to comply with the requirements of this rule, including the state, but instead simply sets out the method by which entities may apply for a boating grant and the method in which the Division will evaluate boating grant applications.
B) Local governments:
There are no anticipated costs or savings for local governments associated with this rule. This rule sets out the processes and procedures necessary to the Division's administration of the Boating Grant program. The processes and procedures set out in this rule do not impose any costs or savings on the local governments over and above the costs imposed by Subsection 73-18-22.3(5), which provides "[t]he Division of Outdoor Recreation shall administer the grants under this section pursuant to rules made" in accordance with the requirements of the Utah Administrative Rulemaking Act.

This rule does not impose any costs or savings on entities to comply with the requirements of this rule, including local governments, but instead simply sets out the method by which entities may apply for a boating grant and the method in which the Division will evaluate boating grant applications.

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

There are no anticipated costs or savings for small businesses associated with this rule. This rule sets out the processes and procedures necessary to the Division's administration of the Boating Grant program. The processes and procedures set out in this rule do not impose any costs or savings on small businesses over above the costs imposed by Subsection 73-18-22.3(5), which provides "[t]he Division of Outdoor Recreation shall administer the grants under this section pursuant to rules made" in accordance with the requirements of the Utah Administrative Rulemaking Act.

This rule does not impose any costs or savings on entities to comply with the requirements of this rule, including small businesses, but instead simply sets out the method by which entities may apply for a boating grant and the method in which the Division will evaluate boating grant applications.

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

The proposed rule does not have a fiscal impact on non-small businesses, nor will a service be required of them to implement this rule. This rule sets out the processes and procedures necessary to the Division's administration of the Boating Grant program. The processes and procedures set out in this rule do not impose any costs or savings on non-small businesses over and above the costs imposed by Subsection 73-18-22.3(5), which provides "[t]he Division of Outdoor Recreation shall administer the grants under this section pursuant to rules made" in accordance with the requirements of the Utah Administrative Rulemaking Act.

This rule does not impose any costs or savings on entities to comply with the requirements of this rule, including non-small businesses, but instead simply sets out the method by which entities may apply for a boating grant and the method in which the Division will evaluate boating grant applications.

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

There are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities associated with this rule. This rule sets out the processes and procedures necessary to the Division's administration of the Boating Grant program. The processes and procedures set out in this rule do not impose any costs or savings on persons other than small businesses, non-small businesses, the state, or local government entities over and above the costs imposed by Subsection 73-18-22.3(5), which provides "[t]he Division of Outdoor Recreation shall administer the grants under this section pursuant to rules made" in accordance with the requirements of the Utah Administrative Rulemaking Act.

This rule does not impose any costs or savings on entities to comply with the requirements of this rule, including persons other than small businesses, non-small businesses, the state, or local government entities, but instead simply sets out the method by which entities may apply for a boating grant and the method in which the Division will evaluate boating grant applications.

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

There are no anticipated compliance costs for affected persons.

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

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

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

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

The Executive Director of the Department of Natural Resources, Joel Ferry, has reviewed and approved this regulatory impact analysis.

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

Section 41-22-19		
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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:**

06/17/2025

9. This rule change MAY become effective on:

06/24/2025

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:**

Jason Curry, Director

Date:

04/29/2025

R650. Natural Resources, Outdoor Recreation.**R650-306. Boating Grant Program.****R650-306-1. Authority.**

(1) This rule is established pursuant to Section 73-18-22.3 and applies to the Utah Boating Grant Program.

(2) This rule governs procedures for Utah Boating Grant Program applications, eligibility, project selection, and reporting and reimbursement requirements.

R650-306-2. Definitions.

(1) "Advisory Council" means the Boating Advisory Council created by the division pursuant to Section 73-18-3.5 and Rule R650-202.

(2) "Director" means the Director of the Division of Outdoor Recreation or the director's designee.

(3) "Division" means the Division of Outdoor Recreation.

(4) "Executive Director" means the Executive Director of the Department of Natural Resources.

(5) "Project," as used in this rule, means an undertaking for:

(a) construction, repair, or replacement of a publicly-owned boating facility, including a boat ramp, courtesy dock, or parking lot;

(b) resource protection of waterway shorelines to prevent or minimize erosion created by vessel wave action;

(c) drought access mitigation;

(d) alternative access development for non-motorized vessels to decrease conflicts, congestion, and safety concerns on existing motorboat access ramps; or

(e) the purchase of search and rescue equipment.

R650-306-3. Grant Application Form and Submission Procedure.

(1) The division shall provide a grant application form which shall be posted on the division's website and contain:

(a) grant application submission instructions;

(b) the amount of funds available for application;

(c) grant eligibility criteria;

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- (d) instructions regarding submission of a project description, including submission of a description of a project timeline;
- (e) instructions for providing an outlined budget for total project costs;
- (f) instructions for providing an explanation of funding already procured for the project;
- (g) instructions for providing an itemized budget showing the planned use of any granted funds;
- (h) identification of documents and information the division determines are necessary for its verification and review of the application;
- (i) the grant program materials applicable to the current grant application cycle; and
- (j) the weighted scoring system, as established by the division, that the division will use to evaluate the grant application.
- (2) The division shall supply a paper application to any person or entity requesting a paper application.
- (3)(a) Applicants shall submit a completed grant application to the division by the deadline specified in the application.
- (i) The division shall determine the application deadline referenced in Subsection (3)(a).
- (b) The division shall offer applicants an early review option and provide feedback to grant applicants.
- (i) The division shall publish on the application website, and in grant program materials, the deadline by which an applicant shall submit a grant application to receive early review.
- (c) The division shall review a final application for completeness and shall verify the application meets the requirements set out in Section 73-18-22.3, the grant programs materials, and this rule, and shall return to the applicant an incomplete application or an application that does not meet the requirements set out in Section 73-18-22.3 and this rule.

R650-306-4. Eligible Entities.

Grants may be awarded only to the following Utah entities:

- (1) a water conservancy district;
- (2) a state agency;
- (3) a county; or
- (4) a municipality as defined in Section 10-1-104.

R650-306-5. Boating Grant Project Eligibility Criteria.

- (1) Except as provided in this rule, all granted funds require matching funding from the grant recipient.
- (2)(a) A grant recipient's match may be in the form of cash, labor, equipment, or materials, or donations of land from a third party, when the cash, labor, equipment, materials, or land is exclusively used for the proposed project.
- (b) Only labor hours spent directly advancing the proposed project may be used as a grant recipient's match.
- (c) A grant recipient shall obtain the division's approval of all labor hours proposed for use as the grant recipient's match before the grant recipient expends any labor hours on the proposed project.
- (d) Donated materials and land shall be valued at fair market value based on an appraisal approved by the division.

R650-306-7. Method And Formula for Determining Grant Recipients.

- (1) The division shall:
 - (a) use a weighted scoring system that enables the advisory council to analyze, advise, and recommend grants for award; and
 - (b) describe the scoring system in the grant application.
- (2) The scoring system shall assess and value various categories, including whether the proposed project will:
 - (a) use granted funds in a manner considered reasonable and necessary as determined by a submitted budget or past project performance that demonstrates the applicant's fiscal integrity;
 - (b) offer partnerships and cooperative efforts for the project among agencies and users, including opportunities for cooperative funding;
 - (c) have a higher percentage of matching funding from the applicant.
- (3) The advisory council shall, upon receipt of a grant application from the division:
 - (a) review and consider the grant application; and
 - (b) consult with and recommend to the division as to whether granted funds should be awarded based on the weighted scoring system identified in the grant application
- (4) The director shall select and approve grant applications based on the weighted scoring system identified in the grant application, taking into consideration recommendations from division staff and the advisory council, which may be in the form of joint or separate recommendations.
- (5) Within two weeks of the director's approval, the division shall notify applicants of the final decision on the applicant's grant application.
- (6) The division shall inform successful applicants of the expected contractual requirements.
- (7) The division shall inform unsuccessful applicants that their application was not successful.
- (8) The division shall inform the advisory council of grants selected for award.

R650-306-8. Reporting and Reimbursement Cooperation Requirements.

- (1) A grant recipient shall provide any financial records related to the grant project upon the division's request.
- (2) A grant recipient shall provide the division with progress reports until the project is complete.
- (3) A grant recipient shall provide to the division an itemized report that describes and details the expenditure of all granted funds or the intended expenditure of any unspent granted funds.

- (4) A recipient shall provide the reports referenced in Subsections (2) and (3) at least annually.
- (5) A grant recipient shall submit a final report to the division no later than 60 days after the grant agreement has expired.
- (a) The final report shall clearly demonstrate, and provide assurances, that all granted funds disbursed to the grant recipient have been used for the purposes specified in the recipient's grant application and the grant agreement.
- (6) To request reimbursement for approved expenditures, a grant recipient shall submit the following documentation to the division:
- (a) a reimbursement request on a form provided by the division;
- (b) copies of all invoices and evidence of payment of invoices, such as checks, bank statements, or receipts, as well as records of volunteer labor or other in-kind donations for work completed on the project;
- (c) several photos or similar documentation showing the project is complete;
- (d) a final report with the description of the completed project; and
- (e) any other documentation the division deems necessary to ensure the recipient has complied with the grant agreement.
- (7)(a) At its sole discretion, the division may advance no more than 75% of granted funds to the grant recipient before the project's completion if the grant recipient demonstrates it does not have the financial ability to pay project expenses during the contract period.
- (i) If a grant recipient requests advance granted funds from the division, the recipient shall outline the expected use of the advanced granted funds for a period of 12 months.
- (ii) If the division awards advance funds, it shall do so in increments of 25% of the grant award.
- (iii) In addition to any other documents this rule requires the recipient to submit to the division, the recipient shall, upon the division's request, provide the division with any documentation the division determines necessary to ensure advance funds are managed and expended in accordance with the requirements of the grant agreement.
- (b) A grant applicant shall state within the grant application that the applicant intends to request advance granted funds.
- (c) If the division advances granted funds, the grant recipient shall provide a progress report and an accounting of all project expenditures pursuant to timelines set out by the division in the grant contract.
- (d) The division shall provide the balance of granted funds to the grant recipient after the completion of the project and only after a final accounting of total project costs that details the expenditure of all granted funds or the intended cost of any unspent advanced granted funds.
- (e) The division shall, in the grant agreement, provide any additional conditions that a grant recipient shall fulfill to receive advance granted funds, as well as any continuing obligations, including documentation requirements, that the grant recipient shall fulfill if advanced granted funds are received.
- (8) A recipient shall make all project expenditures during the contract period.
- (9) The division may not provide the grant recipient with any granted funds for costs accrued before or after the contract period.
- (10)(a) A grant recipient shall submit documentation for reimbursement within 60 days following the contract's expiration.
- (b) The documentation shall describe the expenditure of all granted funds.
- (11) The grant recipient shall return to the division any granted funds not spent on the project.

R650-306-9. Modifications To the Original Grant Agreement.

Modifications to an original grant agreement may be made only by subsequent, written amendment, approved by the director, and signed by all parties to the original grant agreement.

KEY: outdoor recreation grants, boating

Date of Last Change: 2025

Authorizing, and Implemented or Interpreted Law: 73-18-22.3

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:

R710-4

Filing ID: 57116

Agency Information

1. Title catchline:		Public Safety, Fire Marshal	
Building:		Conference Center at Miller Campus	
Street address:		410 W 9800 S, Suite 372	
City, state:		Sandy, UT 84070	
Contact persons:			
Name:		Phone:	Email:
Kim Gibb		801-556-8198	kgibb@utah.gov
Ted Black		801-256-2390	tblack@utah.gov
Please address questions regarding information on this notice to the persons listed above.			

General Information**2. Rule or section catchline:**

R710-4. Buildings Under the Jurisdiction of the State Fire Prevention Board

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

The purpose of this rule change is to update old language and remove unnecessary language, as well as correcting some formatting issues.

4. Summary of the new rule or change:

The amendment updates antiquated language used in the previous version of this rule and removes unnecessary terms, and corrects formatting issues.

In addition, it ensures the correct version of the National Fire Protection Association Building Construction Code is adopted and clarified.

Fiscal Information**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

There is no anticipated cost or savings to the state budget because this rule amendment doesn't make any operational changes. This rule amendment only updates antiquated language and corrects formatting issues.

B) Local governments:

There is no anticipated cost or savings to local governments because this rule amendment doesn't make any operational changes. This rule amendment only updates antiquated language and corrects formatting issues.

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

There is no anticipated cost or savings to small businesses because this rule amendment doesn't make any operational changes. This rule amendment only updates antiquated language and corrects formatting issues.

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

There is no anticipated cost or savings to non-small businesses because this rule amendment doesn't make any operational changes. This rule amendment only updates antiquated language and corrects formatting issues.

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

There is no anticipated cost or savings to persons other than small businesses, non-small businesses, state, or local government entities because this rule amendment doesn't make any operational changes. This rule amendment only updates antiquated language and corrects formatting issues.

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

There is no anticipated compliance cost for affected persons because this rule amendment doesn't make any operational changes. This rule amendment only updates antiquated language and corrects formatting issues.

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

Regulatory Impact Table			
Fiscal Cost	FY2025	FY2026	FY2027
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

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

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

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

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

Section 53-7-204		
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Incorporations by Reference Information**7. Incorporations by Reference:****A) This rule adds or updates the following title of materials incorporated by references:**

Official Title of Materials Incorporated (from title page)	Life Safety Code
Publisher	National Fire Protection Association
Issue Date	2012
Issue or Version	NFPA 101, 2012 Edition

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

Official Title of Materials Incorporated (from title page)	National Fire Alarm and Signaling Code
Publisher	National Fire Protection Association
Issue Date	2019
Issue or Version	NFPA 72, 2019 Edition

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:**

06/17/2025

9. This rule change MAY become effective on:

06/24/2025

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:	Ted Black, State Fire Marshal	Date:	04/22/2025
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R710. Public Safety, Fire Marshal.**R710-4. Buildings Under the Jurisdiction of the State Fire Prevention Board.****R710-4-1. Purpose.**

~~[The Purpose of this rule is to establish minimum rules for the prevention of fire and for the protection of life and property against fire and panic in any publicly owned building, including all public and private schools, colleges, and university buildings, and in any building or structure used or intended for use, as an asylum, hospital, mental hospital, sanitarium, home for the aged, assisted living facility, children's home or day care center, or any similar institutional type occupancy of any capacity; and in any place of assemblage where 50 or more persons may gather together in a building, structure, tent, or room, for the purpose of amusement, entertainment, instruction, or education.] This rule establishes minimum standards for the prevention of fire and for the protection of life and property against fire in any publicly owned building.~~

R710-4-2. Authority.

This rule is authorized by Section 53-7- 204.

R710-4-3. Adoption.

The following chapters from NFPA, Standard 101, Life Safety Code, 2021 edition, are the only chapters ~~[adopted]~~ incorporated by reference in this rule: Chapter 18 - New Health Care Occupancies; Chapter 19 - Existing Health Care Occupancies; Chapter 20 - New Ambulatory Health Care Occupancies; Chapter 21 - Existing Ambulatory Health Care Occupancies; Chapter 22 - New Detention and Correctional Occupancies; Chapter 23 - Existing Detention and Correctional Occupancies; and other sections referenced within and pertaining to these chapters only. Wherever there is a section, figure or table in NFPA 101 that references "NFPA 5000 - Building Construction and Safety Code", that reference shall be replaced with the similar reference in the state adopted building code.

R710-4-4. Definitions.

~~_____ (1) "Authority Having Jurisdiction (AHJ)" means the State Fire Marshal, his authorized deputies, or the local fire enforcement authority.~~

~~_____ (2) "Board" means Utah Fire Prevention Board.~~

~~_____ (3) "Bureau of Fire Prevention or Fire Prevention Bureau" means the AHJ.~~

~~_____ (4) "Fire Chief or Chief of the Department" means the AHJ.~~

~~_____ (5) "Fire Department" means the AHJ.~~

~~_____ (6) "Fire Marshal" means the AHJ.~~

~~_____ (7) "Fire Officer" means the State Fire Marshal, the state fire marshal's deputies, the fire chief or fire marshal of any county, city, or town fire department, the fire officer of any fire district or special service district organized for fire protection purposes is the AHJ.~~

~~_____ (8) "IBC" means International Building Code.~~

~~_____ (9) "ICC" means International Code Council, Inc.~~

~~_____ (10) "IFC" means International Fire Code.~~

~~_____ (11) "IFGC" means International Fuel Gas Code.~~

~~_____ (12) "IMC" means International Mechanical Code.~~

~~_____ (13) "IPC" means International Plumbing Code.~~

~~_____ (14) "LSC" means Life Safety Code.~~

~~_____ (15) "NEC" means National Electric Code.~~

~~_____ (16) "NFPA" means National Fire Protection Association.~~

~~_____ (17) "SFM" means State Fire Marshal.]~~

~~_____ (1) Terms used in this rule are defined in Section 53-7-102.~~

~~_____ (2) In addition:~~

~~_____ (a) "authority having jurisdiction" or "AHJ" means the State Fire Marshal, deputies authorized by the State Fire Marshal, or the local fire enforcement authority;~~

~~_____ (b) "IMC" means the International Mechanical Code, incorporated by reference under Section 15A-2-103;~~

~~_____ (c) "NFPA" means National Fire Protection Association; and~~

~~_____ (d) "NFPA Standard 72" means the National Fire Protection Association Standard 72, National Fire Alarm Signaling Code, 2019 edition, incorporated by reference in this rule, and amended by Section 15A-5-302.~~

R710-4-5. Amendments and Additions.

(1) Water Supply Analysis;

(a) an architect or engineer shall provide a water supply analysis [F]for proposed construction in both sprinklered and nonsprinklered [occupancies]buildings; ~~[the architect or engineer shall provide a water supply analysis as required in NFPA, Standard 13, Chapter 22.]~~

(b) ~~[F]the architect or engineer shall provide the water supply analysis during the preliminary design phase of the proposed construction;[The]~~

(c) an AHJ [shall]may not approve the plan review without the water supply analysis being provided or receipt of a previously submitted and approved water supply [information]analysis within the last 12 months; and[that is approved by the AHJ.]

~~[(e)-F](d)~~ the water analysis shall be representative of the supply that may be available at the time of a fire ~~as required in NFPA, Standard 13, 23.2.1.1 and A23.2.1.1.~~

(2) Fire Alarm Systems;

(a) ~~[Required Installations]~~

~~—(i) AH~~each state-owned building[s], college and university building[s], ~~[other than institutional, with an occupant load of 300 or more, all]~~ school[s] with an occupant load of 50 or more, and I and R-4 occupancy shall have an approved fire alarm system with the following features:

~~[(A) Automatic detection devices that detect smoke shall be installed throughout all corridors and spaces open to the corridor at the maximum prescribed spacing of thirty feet on center and no more than fifteen feet from the walls or smoke detectors shall be installed as required in NFPA, Standard 72, Section 17.7.~~

~~—(B) W~~(i) where structures are not protected or are partially protected with an automatic fire sprinkler system, approved automatic detectors shall be installed in accordance with the complete coverage requirements of NFPA, Standard 72[-]; and

~~[(C) Manual fire alarm boxes shall be provided as required.](ii)~~ ~~[H]~~in public and private elementary and secondary schools, manual fire alarm boxes shall be provided in the boiler room, kitchen, and main administrative office of each building, and any other areas as determined by the ~~[AHJ]~~division.

~~[(b)](3)~~ Main Panel;

~~[(+)](a)~~ ~~[A]~~an approved key plan drawing and operating instructions shall be posted at the main fire alarm panel which displays the location of all alarm zones and if applicable, device addresses[-];

~~[(+)](b)~~ ~~[F]~~the main panel shall be located in a normally attended area such as the main office or lobby[-]; and

~~—(c) [L]~~if the location of the ~~[M]~~main ~~[P]~~panel is not as described in Subsection R710-4-5(2)(b)(ii): ~~[other than as stated above,]~~

(i) shall require the review and authorization of the ~~[SFM]~~division: ~~[-Where location as required above is not possible,]~~

(ii) an electronically supervised remote annunciator from the main panel shall be located in a supervised area of the building: ~~[-F]~~

(iii) the remote annunciator shall visually indicate system power status, alarms for each zone, and give both a visual and audible indication of trouble conditions in the system; and ~~[-A]~~

(iv) all indicators on both the main panel and remote annunciator shall be adequately labeled.

~~[(+)](4)~~ System Wiring Class;

~~[(+)](a)~~ ~~[F]~~fire alarm system wiring shall be designated and installed as follows:

~~[(+)](i)~~ ~~[F]~~the initiating device circuits shall be designated and installed Class A as defined in NFPA, Standard 72[-];

~~[(+)](ii)~~ ~~[F]~~the notification appliance circuits shall be designated and installed Class A as defined in NFPA, Standard 72[-]; and

~~[(+)](iii)~~ ~~[S]~~signaling line circuits shall be designated and installed Class A loop as defined in NFPA, Standard 72.

~~[(+)](5)~~ Fan Shut Down;

~~[(+)](a)~~ ~~[F]~~fan shut down shall be as required in the IMC ~~[-Chapter 6, Section 606.]; and~~

~~[(+)](b)~~ ~~[D]~~duct detectors required by the IMC, shall be interconnected, and compatible with the fire alarm system.

~~[(+)](6)~~ Time Out and Seclusion Rooms;

(a) ~~[F]~~time ~~[O]~~out and ~~[S]~~seclusion ~~[R]~~rooms are allowed in occupancies protected by an automatic fire alarm system[-];

(b) ~~[A]~~a vision panel shall be provided in the room door for observation purposes[-];

(c) ~~[F]~~time ~~[O]~~out and ~~[S]~~seclusion ~~[R]~~room doors may not be fitted with a lock unless it is a self-releasing latch that releases automatically if not physically held in the locked position by an individual on the outside of the door[-]; and

(d) ~~[F]~~time ~~[O]~~out and ~~[S]~~seclusion ~~[R]~~rooms shall be located where a responsible adult can maintain visual monitoring of the person and room.

[R710-4-6. Repeal of Conflicting Board Actions:

~~—All former Board actions, or parts thereof, conflicting or inconsistent with the provisions of this Board action or of the codes hereby adopted, are hereby repealed.~~

R710-4-7. Validity:

~~—The Board hereby declares that should any section, paragraph, sentence, or word of this Board action, or of the codes hereby adopted, be declared, for any reason, to be invalid, it is the intent of the Board that it would have passed all other portions of this Board action, independent of the elimination here from of any such portion as may be declared invalid.]~~

R710-4-[8]6. Conflicts.

In the event where separate requirements pertain to the same situation in the same code, or between different codes as adopted, the more restrictive requirement shall govern, as determined by the AHJ, or ~~[his]~~ the AHJ's designated authorized representative.

R710-4-[9]7. Adjudicative Proceedings.

(1) ~~[All a]~~Adjudicative proceedings performed by the ~~[agency]~~division or board ~~[-shall proceed informally as set forth herein and as authorized by UCA.]~~ are designated as informal adjudicative proceedings under Section[s] 63G-4-202[- and 63G-4-203].

(2) A person may request a hearing on a decision made by the AHJ, by filing an appeal to the ~~[B]~~board within 20 days after receiving final decision from the AHJ.

(3) ~~[All a]~~Adjudicative proceedings ~~[-other than criminal prosecution, taken]~~ performed by the ~~[AHJ]~~division or board to enforce the Utah Fire Prevention and Safety Act, and ~~[these rules]~~ this rule, shall commence in accordance with ~~[UCA,]~~ Section 63G-4-201.

NOTICES OF PROPOSED RULES

(4) The [B]board shall act as the hearing authority[;] and [~~shall~~]convene as an appeals board after timely notice to [~~all parties~~]each party involved.

(5) The [B]board shall [~~direct the SEM to~~]issue a signed order to the parties involved [~~giving the decision of the Board within a reasonable time of the hearing~~]pursuant to [UCA,]Section 63G-4-203.

(6) Reconsideration of the [B]board's decision may be requested in writing within 20 days of the date of the decision pursuant to [UCA,]Section 63G-4-302.

(7) Judicial review of [~~an~~]any final [B]board action[s] resulting from an informal adjudicative proceeding[s] is available pursuant to [UCA,]Section 63G-4-402.

KEY: fire prevention, public buildings

Date of Last Change: 2025[August 15, 2016]

Notice of Continuation: April 19, 2022

Authorizing, and Implemented or Interpreted Law: 53-7-204

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Repeal and Reenact

Rule or Section Number:

R765-609

Filing ID: 57157

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 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:
R765-609. Regents' Scholarship
3. Purpose of the new rule or reason for the change:
This repeal and reenact is being adopted to implement technical changes for clarity and consistency. Currently, Rule R765-609C more closely reflects the current rule that the Board intends on implementing, so the text of Rule R765-609 needs to be repealed and reenacted to reflect that language.
Rule R765-609C will be repealed once this rule has been reenacted.
4. Summary of the new rule or change:
This reenactment amends the text of Rule R765-609 to implement content in Rule R765-609C and renumbers the rule to be consistent with numbering in the corresponding Board policy.
This reenactment also updates references and hyperlinks.
Rule R765-609C will be repealed after this rule is published. The only substantive amendment from the text of Rule R765-609C clarifies that colleges and universities may not award a Regent's scholarship in an amount that exceeds the average total cost of tuition and fees among Utah System of Higher Education institutions.
The online method by which an appeal may be submitted is also clarified.

The other changes are for clarity and consistency.

Fiscal Information

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

A) State budget:

This reenactment does not affect the state budget. It is technical in nature and does not result in any substantive changes to the rule that would affect the state budget.

B) Local governments:

This reenactment does not affect local governments. It is technical in nature and does not result in any substantive changes to the rule that would affect local governments.

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

This reenactment does not affect small businesses. It is technical in nature and does not result in any substantive changes to the rule that would affect small businesses.

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

This reenactment does not affect non-small businesses. It is technical in nature and does not result in any substantive changes to the rule that would affect 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 reenactment does not affect persons other than small businesses, non-small businesses, or state or local government entities. It is technical in nature and does not result in any substantive changes to the rule that would affect persons other than small businesses, non-small businesses, or 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?):

This reenactment has no affected persons. It is technical in nature and does not result in any substantive changes to the rule that would affect entities.

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

Regulatory Impact Table

Fiscal Cost	FY2025	FY2026	FY2027
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
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 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 53B-8-108	Subsection 53B-2-101(1)	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	06/17/2025

9. This rule change MAY become effective on:	06/24/2025
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:	04/22/2025
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R765. Higher Education (Utah Board of), Administration.~~**R765-609. Regents' Scholarship.**~~~~**R765-609-1. Purpose.**~~

~~The Regents' Scholarship encourages Utah high school students to prepare for college academically and financially by taking a core course of study in grades 9-12 and saving for college. This statewide scholarship is aligned with the Utah Scholars Core Course of Study which is based on national recommendations as outlined by the State Scholars Initiative. The courses required by the scholarship are proven to help students become college and career ready. In addition, this scholarship encourages high school students to complete meaningful course work through their senior year.~~

~~**R765-609-2. References.**~~

- ~~2.1. Utah Code Ann. Section 53B-8-108 et seq., Regents' Scholarship Program;~~
- ~~2.2. Utah Admin. Code Section R277-700-6, High School Requirements (Effective for graduating students beginning with the 2010-2011 School Year);~~
- ~~2.3. Regents' Policy and Procedures R604, New Century Scholarship.~~

~~**R765-609-3. Definitions.**~~

- ~~3.1. "Applicant" means a student who is in their last term in high school and on track to complete the high school graduation requirements of a public school established by the Utah State Board of Education and the student's school district or charter school or a private high school in the state that is accredited by a regional accrediting body approved by the Utah State Board of Regents.~~
- ~~3.2. "Base award" means a one-time scholarship to be awarded to applicants who complete the eligibility requirements of section 4.1 of this policy.~~
- ~~3.3. "Board" means the Utah State Board of Regents.~~
- ~~3.4. "College Course Work" means instance in which college credit is earned, including but limited to, concurrent enrollment, distance education, dual enrollment, or early college.~~
- ~~3.5. "Core Course of Study" means the the courses taken during grades 9-12, for the Core Course of Study which include:~~
 - ~~3.5.1. 4.0 credits of English;~~
 - ~~3.5.2. 4.0 credits of mathematics taken in a progressive manner (at minimum Secondary Mathematics I, Secondary Mathematics II, Secondary Mathematics III and one class beyond); if the student is attending a school that has not implemented the Utah Core "K-12" Standards, a student would complete at minimum Algebra I, Geometry, Algebra II, and a class beyond Algebra II;~~
 - ~~3.5.3. 3.5 credits of social studies;~~
 - ~~3.5.4. 3.0 credits of lab-based natural science (one each of Biology, Chemistry, and Physics); and~~
 - ~~3.5.5. 2.0 credits of the same world or classical language, other than English, taken in a progressive manner.~~
- ~~3.6. "Eligible Institutions" means institutions of USHE, or any private, nonprofit institution of higher education in Utah accredited by the Northwest Commission on Colleges and Universities (NWCCU).~~
- ~~3.7. "Excusable Neglect" means a failure to take proper steps at the proper time, not in consequence of carelessness, inattention, or willful disregard of the scholarship application process, but in consequence of some unexpected or unavoidable hindrance or accident.~~

- 3.8. "Exemplary Academic Achievement award" (Exemplary Award) means a renewable scholarship to be awarded to students who complete the eligibility requirements of section 4.2 of this policy.
- 3.9. "Good Cause" means the student's failure to meet a scholarship application process requirement was due to circumstances beyond the student's control or circumstances that are compelling and reasonable.
- 3.10. "High school" means a public school established by the Utah State Board of Education or private high school within the boundaries of the State of Utah. If a private high school, it shall be accredited by a regional accrediting body approved by the Board.
- 3.11. "Home schooled" refers to a student who has not graduated from a Utah high school and received letter grades for the Core Course of Study in grades 9-12.
- 3.12. "Recipient" means an applicant who receives an award under the requirements set forth in this policy.
- 3.13. "Reasonable progress" means enrolling and completing at least fifteen credit hours during Fall and Spring semesters and earning a 3.3 grade point average (GPA) or higher each semester while enrolled at an eligible institution and receiving the award.
- 3.14. "Renewal Documents" include institutionally produced documents demonstrating that the recipient has met the required semester GPA and a detailed schedule providing proof of enrollment in fifteen credit hours for the semester for which the recipient is seeking award payment.
- 3.15. "Scholarship Appeals Committee" means the committee designated by the Commissioner of Higher Education to review appeals of Regents' Scholarship award decisions and take final agency action regarding awards.
- 3.16. "Scholarship Staff" means the group assigned to review Regents' Scholarship applications and make initial decisions awarding the scholarships.
- 3.17. "Substantial Compliance" means the applicant, in good faith, complied with the substantial or essential scholarship application requirements and has demonstrated likely eligibility but failed to comply exactly with the application specifics.
- 3.18. "UESP" means the Utah Educational Savings Plan.
- 3.19. "USHE" means the Utah System of Higher Education, which includes the University of Utah, Utah State University, Weber State University, Southern Utah University, Snow College, Dixie State University, Utah Valley University, and Salt Lake Community College.
- 3.20. "Weighted Grade" means a grade shall be weighted if a student completed an advanced placement, international baccalaureate or college course. The grade weight given is half the value of the high school credits earned for the course. For AP and IB courses all grades are averaged and then the weight is applied. When college credit is earned the grade weight is applied to the grade shown on the college transcript.

R765-609-4. Base Award Requirements:

- 4.1. To qualify for the Regents' Scholarship Base Award, the applicant shall satisfy the following criteria:
- 4.2. Complete the Core Course of Study as defined in section 3.5 of this policy subject to the following criteria:
- 4.2.1. Not all courses that meet state and individual district high school graduation requirements meet the scholarship requirements;
- 4.2.2. Course Availability: In addition to taking courses at the school they are attending, a student may complete coursework through other accredited Utah high schools or Utah eligible institutions;
- 4.2.3. A student may meet a course requirement through a competency-based assessment provided it is documented on a transcript and has a letter grade (A-C) assigned;
- 4.2.4. The courses completed shall be unique except when repeated for a higher grade as noted in section 4.4. Students may not take a standard course and then enroll in the honors version of the same course and count both toward meeting the scholarship credit requirements and, when applicable, the requirement of progression; and
- 4.2.5. Repeated course work shall not count toward accumulation of required credits.
- 4.3. GPA: The applicant shall demonstrate completion of the Core Course of Study with a non-weighted cumulative high school GPA of at least 3.0.
- 4.4. Minimum Grade Requirement: the applicant shall earn a course grade on a transcript of "C" or above in each individual course listed in section 3.5. Certain courses may receive a weighted grade as outlined under subsection 9.5 as part of the scholarship award determination.
- 4.5. Replacing Low Grades by Retaking a Course: An applicant may retake a course to replace a low grade received. When retaking courses to replace a grade the following subsections apply:
- 4.5.1. The Entire Course: The applicant shall either (1) retake the entire original course, or (2) complete an approved course equal to or greater in credit value in the same subject area. The math and foreign language requirement of progression shall be shown. This is true even if the applicant only received a lower grade in a single semester, term, trimester, or quarter.
- 4.5.2. The Higher of Two Grades: The higher of two grades in the same or an approved course will count towards meeting the scholarship requirements.
- 4.5.3. Approved Courses and Progression Determined by the Regents' Scholarship Review Committee: The Regents' Scholarship Review Committee reserves the right to determine if the repeated course qualifies as an approved course in the same subject area and if progression is required and demonstrated.
- 4.5.4. "P" and "I" Grades not Accepted: Pass/fail or incomplete grades do not meet the minimum scholarship grade requirement.
- 4.6. College Course Work: College course work will only be evaluated if the applicant submits an official college transcript. If an applicant enrolls in and completes a college course worth three or more college credits, this shall be counted as one high school credit toward the scholarship requirements. The student is evaluated on the college grade earned, with the weight added to the college grade as defined in section 3.19.
- 4.7. ACT Score: The applicant shall submit at least one verified ACT score.
- 4.8. Utah High School Graduation: The applicant shall have graduated from a Utah high school.
- 4.9. Citizenship: A recipient shall be a citizen of the United States or a noncitizen who is eligible to receive federal student aid.
- 4.10. No Criminal Record: A recipient shall not have a criminal record, with the exception of a misdemeanor traffic citation.
- 4.11. Mandatory Fall Semester Enrollment: A recipient shall enroll in fifteen credit hours at an eligible institution by Fall semester immediately following the student's high school graduation date or receive an approved deferral from the Board under subsection 7.2. Documentation

NOTICES OF PROPOSED RULES

shall include the recipient's name, the semester the recipient will attend, the name of the institution they are attending and the number of credits for which the recipient is enrolled.

~~4.12. New Century Scholarship: A recipient shall not receive both a Regents' Scholarship and the New Century Scholarship established in Utah Code Section 53B-8-105 and administered in R765-604.~~

R765-609-5. Exemplary Academic Achievement Award Requirements.

~~5.1. To qualify for the Regents' Scholarship Exemplary Academic Achievement Award, the applicant shall satisfy all requirements for the base award (see Subsection 3.4), and additionally meet all of the following requirements:~~

~~5.2. GPA: The applicant shall have a non-weighted cumulative high school GPA of at least 3.5.~~

~~5.3. Minimum Grade: The applicant shall earn a course grade on a transcript of "B" or above in each individual course listed in section 3.4. Certain courses may receive a weighted grade as part of the scholarship award determination.~~

~~5.4. ACT Score: The applicant shall submit a verified composite ACT score of at least 26.~~

R765-609-6. Continuation and Renewal of the Exemplary Award.

~~6.1. Duty of Student to Report Reasonable Progress Toward Degree Completion: In order to renew the Exemplary Achievement Award, the recipient shall submit renewal documents each semester, providing evidence of reasonable progress toward degree completion by the deadlines established in current program materials.~~

~~6.2. If the recipient fails to maintain a 3.3 GPA in a single semester the recipient is placed on probation and shall earn a 3.3 GPA or better the following semester to maintain eligibility. If the recipient again at any time earns less than a 3.3 GPA or fails to enroll and complete fifteen credit hours, except as outlined in section 7.2 of this policy, the scholarship may be revoked.~~

~~6.3. A recipient will not be required to enroll in fifteen credit hours if the student can complete his/her degree program with fewer credits.~~

R765-609-7. Application Procedures.

~~7.1. Application Deadline: Applicants shall submit an official scholarship application to the no later than February 1 of the year that they graduate from high school. A priority deadline may be established each year. Applicants who meet the priority deadline may be given first priority or consideration for the scholarship. Subject to funding, students may be considered based on date of completed and submitted application.~~

~~7.2. Required Documentation: Scholarship awards shall be denied if all documentation is not complete and submitted by the specified deadlines. If any documentation demonstrates that the applicant did not satisfactorily fulfill all course and GPA requirements, or if any information, including the attestation of criminal record or citizenship status, proves to be falsified the scholarship award may be denied. Required documents that shall be submitted with a scholarship application include:~~

~~7.2.1. the official online application;~~

~~7.2.2. an official high school paper or electronic transcript, official college transcript(s) when applicable, and any other miscellaneous transcripts demonstrating all completed courses and GPA. Final transcript(s) will be requested if the student is found conditionally approved, meaning that the student appears to be on track to receive the scholarship;~~

~~7.2.3. verified ACT score(s).~~

R765-609-8. Amount of Awards and Distribution of Award Funds.

~~8.1. Funding Constraints of Awards: The Board may limit or reduce the Base award and/or the Exemplary Academic Achievement award, as well as supplemental awards granted, depending on the annual legislative appropriations and the number of qualified applicants.~~

~~8.2. Amount of Awards.~~

~~8.2.1. Base Award: The Base award of up to \$1,000 may be adjusted annually by the Board in an amount up to the average percentage tuition increase approved by the Board for USHE institutions.~~

~~8.2.2. Exemplary Academic Achievement Award: The Exemplary Academic Achievement award is up to the amount provided by law and as determined each spring by the Board based on legislative funding and the number of applicants. The Exemplary Academic Achievement award may be renewed for the shortest of the following:~~

~~8.2.2.1. Four semesters of enrollment in fifteen credit hours;~~

~~8.2.2.2. Sixty-five credit hours; or~~

~~8.2.2.3. Until the student meets the requirements for a baccalaureate degree.~~

~~8.2.3. UESP Supplemental Award to Encourage College Savings: Subject to available funding, an applicant who qualifies for the Base award is eligible to receive up to an additional \$400 in state funds to be added to the total scholarship award.~~

~~8.2.3.1. For each year the applicant is 14, 15, 16, or 17 years of age and had an active UESP account, the Board may contribute, subject to available funding, \$100 (i.e., up to \$400 total for all four years) to the recipient's award if at least \$100 was deposited into the account for which the applicant is named the beneficiary.~~

~~8.2.3.2. If no contributions are made to an applicant's account during a given year, the matching amount will likewise be \$0.~~

~~8.2.3.3. If contributions total more than \$100 in a given year, the matching amount will cap at \$100 for that year.~~

~~8.2.3.4. Matching funds apply only to contributions, not to transfers, earnings, or interest.~~

~~8.3. Distribution of Award Funds.~~

~~8.3.1. Award Payable to Institution: The award will be made payable to the institution. The institution may pay over to the recipient any excess award funds not required for tuition payments. Award funds shall be used for any qualifying higher education expense including: tuition, fees, books, supplies, equipment required for course instruction, or housing.~~

~~8.3.2. Credit Hours Dropped After Award Payment: If a recipient drops credit hours after having received the award which results in enrollment below fifteen credit hours, the scholarship will be revoked.~~

R765-609-9. Time Constraints and Continuing Eligibility.

~~9.1. Time Limitation: A Regents' Scholarship recipient shall use the award in its entirety within five years after his/her high school graduation date.~~

~~9.2. Deferral or Leave of Absence: A recipient shall apply for a deferral or leave of absence if they do not continuously enroll in fifteen credit hours.~~

~~9.2.1. Deferrals or leaves of absence may be granted, at the discretion of the Scholarship Review Committee, for military service, humanitarian/religious service, documented medical reasons, and other exigent reasons.~~

~~9.2.2. An approved deferral or leave of absence will not extend the time limits of the scholarship. The scholarship may only be used for academic terms which begin within five years after the recipient's high school graduation date.~~

~~9.3. No Guarantee of Degree Completion: Neither a Base award nor an Exemplary Academic Achievement award guarantees that the recipient will complete his or her associate or baccalaureate program within the recipient's scholarship eligibility period.~~

R765-609-10. Scholarship Determinations and Appeals.

~~10.1. Scholarship Determinations: Submission of a scholarship application does not guarantee a scholarship award. shall review individual scholarship applications and make the awards determination. Awards are based on available funding, applicant pool, and applicants' completion of scholarship criteria by the specified deadline.~~

~~10.2. Appeals: An applicant has the right to appeal the Scholarship Staff's adverse decision by filing an appeal with the Scholarship Appeals Committee subject to the following conditions:~~

~~10.2.1. The appeal must be in writing and submitted in person or through the U.S. Mail. Appeals must be hand delivered to the office or postmarked within 30 days of the date on which the scholarship notification was issued.~~

~~10.2.2. In the appeal, the applicant must provide his or her full name, mailing address, the high school he or she last attended, a statement of the reason for the appeal, and all information or evidence that supports the appeal. The failure of an applicant to provide the information in this subsection shall not preclude the acceptance of an appeal.~~

~~10.2.3. An appeal filed before the applicant receives official notification from the Scholarship Staff of its decision shall not be considered.~~

~~10.2.4. If an applicant failed to file his or her appeal on time, the Scholarship Appeals Committee shall notify the applicant of the late filing and give him or her an opportunity to explain the reasons for failing to file the appeal by the deadline. The Scholarship Appeals Committee shall not have jurisdiction to consider the merits of an appeal that is filed beyond the deadline unless it determines the applicant established excusable neglect.~~

~~10.2.5. The Scholarship Appeals Committee shall review the appeal to determine if the award decision was made in error, or if the applicant demonstrated substantial compliance with the scholarship application requirements but failed to meet one or more requirements for good cause.~~

~~10.2.6. If the Scholarship Appeals Committee determines the applicant has shown by a preponderance of the evidence that the initial decision was made in error, it shall either reverse the initial decision or remand it back to the Scholarship Staff for further review in accordance with the Appeals Committee's instructions.~~

~~10.2.7. If the Scholarship Appeals Committee determines the applicant has shown by a preponderance of the evidence that he or she demonstrated substantial compliance with the application process requirements and good cause for failing to meet one or more of the requirements, the Appeals Committee shall grant the applicant a reasonable period of time to complete the remaining requirements and to resubmit the completed application to the Scholarship Staff for a redetermination. In such a case, the applicant shall have the right to appeal an adverse decision according to this rule.~~

~~10.2.8. The Scholarship Appeals Committee's decision shall be in writing and contain its findings of facts, reasoning and conclusions of law and notice of the right to judicial review.~~

~~10.2.9. The Scholarship Appeals Committee's decision represents the final agency action. An applicant who disagrees with the Scholarship Appeal Committee's Decision may seek judicial review in accordance with Utah Code 63G-4-402.]~~

R765-609-1. Purpose.

The Regents' Scholarship encourages students to complete a recommended high school curriculum in order to provide better access to higher education opportunities and to reward students for preparing academically for college.

R765-609-2. Definitions.

2.1 "Advanced Math" means any of the following courses: pre-calculus, calculus, statistics, AP calculus AB, AP calculus BC, AP statistics, college courses Math 1030 and higher, IB Math SL, HL, and Further Math.

2.2 "Board" means the Utah Board of Higher Education.

2.3 "College Course Work" means any instance in which college credit is earned, including concurrent enrollment, distance education, dual enrollment, or early college.

2.4 "Eligible Institutions" means institutions of higher education listed in subsection 53B-2-101(1), or a private, nonprofit college or university in the state that is accredited by the Northwest Commission on Colleges and Universities.

2.5 "Excusable Neglect" means a failure to take proper steps at the proper time, not in consequence of carelessness, inattention, or willful disregard of the scholarship application process, but in consequence of some unexpected or unavoidable hindrance or accident.

2.6 "Good Cause" means the student's failure to meet a scholarship application process requirement was due to circumstances beyond the student's control or circumstances that are compelling and reasonable.

2.7 "High School" means a public school established by the Utah State Board of Education or private high school within the boundaries of the state. If a private high school, it shall be accredited by a regional accrediting body approved by the board.

2.8 "Scholarship Appeals Committee" means the committee designated by the Commissioner of Higher Education to review appeals of Regents' Scholarship award decisions and take final agency action regarding awards.

2.9 "Scholarship Award" means a scholarship awarded to all applicants who meet the eligibility requirements of rule R609-4.

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2.10 "Scholarship Staff" means the employees assigned to review Regents' Scholarship applications and make initial decisions awarding the scholarships and deferments.

2.11 "Substantial Compliance" means the applicant, in good faith, demonstrated clear intent to comply with the scholarship application requirements and has demonstrated likely eligibility, but failed to precisely comply with the application specifics.

R765-609-3. Award Requirements.

3.1 To qualify for the Regents' Scholarship, the applicant shall satisfy the following criteria:

3.1.1 Graduate from a Utah high school with a minimum, non-weighted GPA of 3.3;

3.1.2 Complete four credits of English;

3.1.3 Complete four credits of math, including one course of advanced math;

3.1.4 Complete three credits of lab-based biology, chemistry and physics;

3.1.5 Complete two credits of world languages;

3.1.6 Complete three credits of social science;

3.1.7 Complete the ACT with a minimum score of 22 unless exempted under Subsection R765-609-4(4.2.4.1).

3.1.8 Complete and submit the Free Application for Federal Student Aid (FAFSA).

3.2 A student may satisfy a course requirement through a competency-based assessment provided it is documented for credit on an official transcript.

3.3 The courses completed shall be unique except when repeated for a higher grade.

3.4 Repeated course work may not count toward accumulation of required credits.

3.5 College Course Work: College course work shall only be evaluated if the applicant submits an official college transcript. If an applicant enrolls in and completes a college course worth three or more college credits, this shall be counted as one high school credit toward the scholarship requirements.

3.6 Mandatory Enrollment: An award recipient attending a credit-granting eligible institution shall enroll beginning with the fall semester after high school graduation. An award recipient attending a non-credit granting institution must enroll full time in a program eligible for federal aid by September 1 after high school graduation.

3.6.1 Scholarship recipients must elect whether to use the award funds at credit granting institutions or non-credit granting institutions. The decision is irrevocable; recipients may not transfer awards between non-credit granting and credit granting institutions.

3.7 A recipient may not receive both a Regents' Scholarship and the New Century Scholarship established in Section 53B-8-105.

R765-609-4. Application Procedures.

4.1 Application Deadline: An applicant shall submit an official scholarship application no later than February 1 of the year that the applicant graduates from high school. The Board may establish a priority deadline each year. An applicant who meets the priority deadline may be given first priority or consideration for the scholarship. Subject to funding, each student may be considered based on the date the student completed and submitted their application.

4.2 Required Documentation: Each applicant shall submit the following documents:

4.2.1 The online Regents' Scholarship application;

4.2.2 An official high school paper or electronic transcript, each official college transcripts when applicable, and any other miscellaneous official transcript demonstrating all completed courses and GPA;

4.2.3 If a student completed coursework at an educational institution outside of the district from which the student graduated, an official transcript from the school at which the student completed the coursework if the courses completed and grades earned are not reflected in the official high school transcript.

4.2.4 Verified ACT scores unless exempted under Subsection (4.2.4.1).

4.2.4.1 Students who are applying for the 2021 cohort are not required to provide an ACT score.

R765-609-5. Award Amounts and Renewals.

5.1 Funding Constraints of Awards: The Board shall determine award amounts, depending on the annual legislative appropriation, whether the institution is a credit granting or non-credit granting institution, and the number of qualified applicants. An eligible private nonprofit college or university in the state that is accredited by the Northwest Commission on Colleges and Universities may not award a Regents' scholarship to an eligible student in an amount that exceeds the average total cost of tuition and fees among USHE institutions.

5.2 Scholarship Award: Students who meet the eligibility criteria and enroll at a credit granting institution shall receive a four-semester scholarship award, the maximum amount shall be determined annually by the Board. Students who enroll in a non-credit granting institution will receive a one-time scholarship award, the amount of which shall be determined annually by the Board, which the institution may disburse over the course of a recipient's enrollment within this policy's limits and requirements.

5.3 Ongoing Eligibility: If a student receives an award disbursement, the recipient must enroll at a credit granting institution, maintain a 3.0 GPA and complete a minimum of 12 credit hours per academic semester to remain eligible for future disbursements. Students who earn less than a 3.0 semester GPA will be placed on probation. If the recipient again at any time earns less than a 3.0 GPA, the scholarship may be revoked. Institutions shall verify the recipient has met these requirements. Recipients who do not maintain eligibility shall forfeit the remaining award amount.

R765-609C-6. Time Constraints and Deferrals.

6.1 Time Limitation: Scholarship funds are only available to a recipient for five years after the recipient's high school graduation date.

6.2 Upon the first day a recipient begins courses using the scholarship funds at a non-credit granting institution, the recipient must use the award in its entirety within two years, unless extended under Subsection (6.3). This time limit does not extend the five-year award availability under Subsection (6.1).

6.3 Deferral or Leave of Absence: Recipients who will not enroll continuously for Fall and Spring/Winter at an eligible institution shall apply for a deferral or leave of absence with their institution.

6.3.1 Deferrals may be granted, at the discretion of the scholarship review committee. Leaves of absence may be granted, at the discretion of the institution. Deferrals and leaves of absence may be granted for military service, humanitarian or religious service, documented medical reasons, and other exigent reasons.

6.3.2 An approved deferral or leave of absence will not extend the time limits of the scholarship. The scholarship may only be used for academic terms that begin within five years after the recipient's high school graduation date.

R765-609-7. Transfers.

Recipients may transfer to another eligible institution and retain the scholarship award. Recipients are responsible to inform the Office of the Commissioner of their intent to transfer. The Office of the Commissioner shall coordinate the transfer of scholarship funds and information.

R765-609-8. Scholarship Determinations and Appeals.

8.1 Scholarship Determinations: Submission of a scholarship application does not guarantee a scholarship award. The Scholarship Staff shall review each individual scholarship application and determine eligibility. Awards are based on available funding, applicant pool, and the applicant's completion of scholarship criteria by the specified deadline.

8.2 Appeals: An applicant has the right to appeal the Scholarship Staff's adverse decision by filing an appeal with the Scholarship Appeals Committee subject to the following conditions:

8.2.1 Applicants may submit a written appeal through either the U.S. Mail or online by using the form provided by the Office of the Commissioner of Higher Education. Appeals must be postmarked, if mailed, or submitted online within 30 days of the date on which the scholarship notification was issued.

8.2.2 In the appeal, the applicant must provide their full name, mailing address, the high school they last attended, a statement of the reason for the appeal, and all information or evidence that supports the appeal. The failure of an applicant to provide the information in this subsection may not preclude the acceptance of an appeal.

8.2.3 An appeal filed before the applicant receives official notification from the Scholarship Staff of its decision may not be considered.

8.2.4 If an applicant failed to file their appeal on time, the Scholarship Appeals Committee shall notify the applicant of the late filing and give them an opportunity to explain the reasons for failing to file the appeal by the deadline. The Scholarship Appeals Committee may not have jurisdiction to consider the merits of an appeal that is filed beyond the deadline unless it determines the applicant established excusable neglect.

8.2.5 The Scholarship Appeals Committee shall review the appeal to determine if the award decision was made in error, or if the applicant demonstrated substantial compliance with the scholarship application requirements but failed to meet one or more requirements for good cause.

8.2.6 If the Scholarship Appeals Committee determines the applicant has shown by a preponderance of the evidence that the initial decision was made in error, it shall either reverse the initial decision or remand it back to the Scholarship Staff for further review in accordance with the Appeals Committee's instructions.

8.2.7 If the Scholarship Appeals Committee determines the applicant has shown by a preponderance of the evidence that they demonstrated substantial compliance with the application process requirements and good cause for failing to meet one or more of the requirements, the Appeals Committee shall grant the applicant a reasonable period to complete the remaining requirements and to resubmit the completed application to the Scholarship Staff for a redetermination. In such a case, the applicant shall have the right to appeal an adverse decision according to this rule.

8.2.8 The Scholarship Appeals Committee's decision shall be in writing and contain its findings of facts, reasoning and conclusions of law and notice of the right to judicial review.

8.2.9 The Scholarship Appeals Committee's decision represents the final agency action. An applicant who disagrees with the Scholarship Appeals Committee's decision may seek judicial review in accordance with Section 63G-4-402.

R765-609-9. Reporting.

9.1 As directed by the Commissioner's staff, eligible institutions shall report to the board the following:

9.1.1 The names of each student awarded Regents' Scholarship funds;

9.1.2 Enrollment information such as the current GPA, the number of credits completed, and deferment or leave of absence information; and

9.1.3 Other information deemed necessary to evaluate eligibility or the effectiveness of the program.

9.2 The Board may, at any time, request additional documentation or data related to the Regents Scholarship and may review or formally audit an eligible institution's compliance with this policy.

KEY: higher education, scholarships, secondary education

Date of Last Change: 2025~~December 12, 2016~~

NOTICES OF PROPOSED RULES

Notice of Continuation: April 10, 2025

Authorizing, and Implemented or Interpreted Law: 53B-8-108

End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a **PROPOSED RULE** in the *Utah State Bulletin*, it may receive comment that requires the **PROPOSED RULE** to be altered before it goes into effect. A **CHANGE IN PROPOSED RULE** allows an agency to respond to comments it receives.

As with a **PROPOSED RULE**, a **CHANGE IN PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **CHANGE IN PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends June 16, 2025.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (example). Deletions made to the rule appear struck out with brackets surrounding them (~~example~~). A row of dots in the text between paragraphs (.) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Office of Administrative Rules.

From the end of the 30-day waiting period through September 12, 2025, an agency may notify the Office of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses.

CHANGES IN PROPOSED RULES are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

The Changes in Proposed Rules Begin on the Following Page

NOTICE OF SUBSTANTIVE CHANGE**TYPE OF FILING:** CPR (Change in Proposed Rule)**Rule or Section Number:****R434-40****Filing ID: 56998****Date of Previous Publication (Only for CPRs):** 01/15/2025**Agency Information**

1. Title catchline:	Health and Human Services, Population Health, Primary Care and Rural Health	
Building:	Multi-Agency State Office Building	
Street address:	195 N 1950 W	
City, state	Salt Lake City, UT	
Mailing address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	Phone:	Email:
Marc Watterson	801-647-1490	marcwatterson@utah.gov
Anna West	801-231-3044	awest@utah.gov
Rachel Devine	801-230-6570	rdevine@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R434-40. Utah Health Care Workforce Financial Assistance Program
3. Purpose of the new rule or reason for the change:
Based on internal review and discussion with the Department of Health and Human Services (Department) leadership and counsel, it is determined that it is necessary to further update this rule through a change in proposed rule (CPR) to avoid potential ambiguity in the rule text language and better align this rule with statutory requirements.
4. Summary of the new rule or change:
This CPR removes vague terms and adds language to clarify that that the Department may cancel or release a recipient from the service obligation under the grant agreement without penalty, depending on the availability of appropriated funding. (EDITOR'S NOTE: The original proposed repeal and reenact upon which this change in proposed rule (CPR) was based was published in the January 15, 2025, issue of the Utah State Bulletin, on page 33. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed repeal and reenact together to understand all of the changes that will be enforceable should the agency make this rule effective.)

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated fiscal impact to the state budget, as the CPR does not add, modify, or remove requirements or restrictions for the state.
B) Local governments:
There is no anticipated fiscal impact to local governments. Local governments are not eligible to participate in the program, and therefore, this rule does not apply to them.

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

There is no anticipated fiscal impact to small businesses, as the CPR does not add, modify, or remove requirements or restrictions for small businesses.

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

There is no anticipated fiscal impact to non-small businesses, as the CPR does not add, modify, or remove requirements or restrictions for non-small businesses.

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

There is no anticipated fiscal impact to persons other than small businesses, non-small businesses, state, or local government entities, as the change in the proposed rule does not add, modify, or remove requirements or restrictions for persons.

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

There are no anticipated compliance costs for affected persons. Participation in the program is voluntary, and the change in proposed rule does not add, remove, or modify requirements or restrictions for affected persons who choose to participate.

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

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

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

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information

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

Section 26B-1-202	Section 26B-4-702	
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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:	06/17/2025
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9. This rule change MAY become effective on:	06/24/2025
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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:	04/22/2025
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R434. Health and Human Services, Population Health, Primary Care and Rural Health.**R434-40. Utah Health Care Workforce Financial Assistance Program.****R434-40-1. Authority and Purpose.**

(1) Section 26B-1-202 and Subsections 26B-4-702(1)(c)(ii) and 26B-4-702(3) authorize this rule.

(2) This rule governs the administration of the Utah Health Care Workforce Financial Assistance Program, as created in Section 26B-4-702.

R434-40-2. Definitions.

Terms used in this rule are defined in Section 26B-4-702. Additionally:

(1) "Applicant" means an individual who submits a completed application and meets the application requirements established by the department for a loan repayment grant or scholarship grant under Section 26B-4-702.

(2) "Approved site" means a department-reviewed and department-accepted site where a recipient may fulfill a service obligation and that meets the eligibility criteria established in this rule, including:

(a) a site located within an underserved area within the state which:

(i) provides health care; and

(ii) the majority of patients served are medically underserved due to:

(A) a lack of health care insurance;

(B) an unwillingness of existing geriatric professional and health care professionals to accept patients covered by government health programs; or

(C) other economic[~~-cultural~~] or language barriers to health care access; or

(b) a Utah nursing school or training institution that:

(i) provides a nursing education course of study to prepare persons for the practice of nursing under Title 58, Chapter 31b, Nurse Practice Act or under Title 58, Chapter 44a, Nurse Midwife Practice Act; and

(ii) has a shortage of nurse educator faculty.

(3) "Clinical-related administrative, management, or other activities" means:

(i) administrative care coordination activities;

(ii) charting;

(iii) training, laboratory follow-up, patient correspondence, attending staff meetings, activities related to maintaining professional licensure, and other non-treatment related activities pertaining to the participant's approved practice; or

(iv) any time spent in a management role.

(4) "Dental hygiene" means the science and practice of recognition, prevention, and treatment of oral diseases and conditions as an integral component of total health.

(5) "Department" means the Department of Health and Human Services.

(6) "Educational expenses" means the cost of education in a health care profession, including books, education equipment, fees, materials, reasonable living expenses, supplies, and tuition.

(7) "Eligible bona fide loan" means a loan used to pay for educational expenses leading to a qualifying recipient's relevant professional degree, including:

(a) a commercial loan made by a bank, credit institution, credit union, insurance company, savings and loan association, or school;

(b) a governmental loan made by a federal, state, county, or city agency; and

(c) a loan made by another person with documentation demonstrating:

(i) a contract with notarization at the time of the making of the loan;

(ii) an arm's length transaction; and

(iii) that the loan offers a similarly competitive term and rate compared with other loans made available to students.

(8) "Employer contribution" means the funding contributed by the recipient's health care facility employer as part of the recipient's total assistance.

- (9) "Forensic pathology" means a subspecialty of pathology which investigates non-natural or suspicious deaths, often referred to as reportable deaths.
- (10) "Geriatric" means an individual 65 years old and older.
- (11) "Geriatric professional" means the same as defined in Section 26B-4-702.
- (12) "Grant" means an award of funds under a grant agreement.
- (13) "Loan repayment grant" means a grant to pay educational loans in exchange for service for a specified period at an approved site.
- (14) "Mental health professional" means a mental health therapist as defined in Subsection 58-60-102(15).
- (15) "Nurse educator" means a nurse employed by a Utah school of nursing providing nursing education to individuals leading to licensure or certification as a nurse.
- (16) "Postgraduate training" means an internship, practicum, preceptorship, or residency training required for licensure of a geriatric, health care, or mental health professional, and as required by this rule.
- (17) "Program" means the Utah Health Care Workforce Financial Assistance Program.
- (18) "Publicly funded" means any facility which:
- (a) is administered or run by a state, local, or municipal government agency;
 - (b) is contracted with a government agency to provide services on behalf of the government agency; or
 - (c) receives a substantial amount of state or federal funding.
- (19) "Recipient" means an applicant selected to receive a loan repayment grant or scholarship grant under Section 26B-4-702.
- (20)(a) "Scholarship grant" means a grant for educational expenses awarded to an individual who agrees to become a nurse educator in exchange for service for a specified period at an approved site.
- (b) The approved site for a scholarship grant recipient shall be a Utah nursing school or training institution.
- (21) "Service obligation" means professional service provided at an approved site for a minimum of three years in exchange for a loan repayment grant or scholarship grant.
- (22) "Total assistance" means the full amount of department-approved loan repayment assistance for a recipient, equal to the sum of the department's loan repayment grant and the employer's contribution.
- (23) "Unrestricted license" means an active license not qualified or limited due to disciplinary action as defined in Subsection R156-1-102(26).

R434-40-3. Loan Repayment Grant Terms and Service.

- (1) The department may provide a loan repayment grant to geriatric, health care, and mental health professionals to repay loans taken for educational expenses in exchange for their agreement to serve for a specified period at an approved site in the state.
- (2) The department may only award a loan repayment grant to repay eligible bona fide loans taken by eligible individuals for educational expenses incurred while pursuing an educational degree qualification to practice in the applicant's professional field.
- (3) A recipient's total assistance under this rule may not be:
 - (a) used to satisfy other obligations owed by the recipient under any similar program;
 - (b) used to repay a loan that is in default at the time of application; or
 - (c) in an amount greater than the total outstanding balance on any eligible bona fide loan listed in the application, including accrued interest.
- (4) A recipient must perform at least 90 days of service at an approved site before the department may disburse any grant money under Section 26B-4-702.

R434-40-4. Scholarship Grant Terms and Service.

- (1) To increase the number of nurse educators in underserved areas in the state, the department may provide a scholarship grant to individuals seeking to become nurse educators.
- (2) The department may provide a scholarship grant to pay educational expenses while an applicant pursues an education at an institution accredited by the National League of Nursing that provides training leading to the award of a final degree qualifying the applicant to become a nurse educator in the state.
- (3) Scholarship grants awarded under this rule may not be:
 - (a) used to satisfy other obligations owed under any similar program; or
 - (b) in an amount greater than is reasonably necessary to meet educational expenses.
- (4) A scholarship grant recipient shall seek a course of education that meets or exceeds the minimum number of course hours per year set by the department and leads to a degree or completion of specified additional course work in a number of years as set by the department.

R434-40-5. Loan Repayment Grant Administration.

- (1) The department may award a loan repayment grant to repay a recipient's eligible bona fide loans.
- (2) As outlined by the department, a loan repayment grant recipient shall provide information reasonably necessary for administration of the program.
- (3) The department shall determine the total assistance for a recipient.

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(4) The loan repayment grant recipient may not enter into any other similar contract until the recipient satisfies the service obligation described in the grant agreement.

(5) The department may approve payment to a loan repayment grant recipient for increased federal, state, and local taxes caused by receipt of the loan repayment grant.

(6) The department may not approve an award for an educational loan of a loan repayment grant to an applicant who is in default on a loan when submitting an application.

(7) An applicant must enter into a grant agreement with the department that binds the applicant to the terms of the program before the applicant receives a loan repayment grant.

(8) A loan repayment grant recipient shall have and maintain an unrestricted license to practice in the recipient's health care specialty in the state before the recipient's first day of service under the grant agreement.

(9) A loan repayment grant recipient must obtain department approval of a site before beginning the service obligation at that approved site.

(10) A loan repayment grant recipient must obtain department approval before any change of an approved site where the recipient fulfills the service obligation.

R434-40-6. Scholarship Grant Administration.

(1) The department may award scholarship grant funds to a recipient for a maximum of four years or until the recipient earns a nursing postgraduate degree.

(2) The department may pay tuition and fees directly to the school or directly to the scholarship grant recipient. The department shall determine the amount and frequency of any such tuition and fee payments.

(3) The scholarship grant recipient may not enter into a scholarship agreement other than with the program established in Section 26B-4-702 until the service obligation in the grant agreement is satisfied.

(4) A scholarship grant recipient shall work full-time, as defined by the scholarship grant recipient's employer and as specified in the grant agreement with the department.

(5) A scholarship grant recipient shall serve one year of service obligation for each year the recipient receives a scholarship grant under the program, with a minimum of three years required.

(6) The department may cancel a scholarship grant at any time if:

(a) the department finds that the scholarship grant recipient has voluntarily or involuntarily terminated the recipient's schooling or postgraduate training; or

(b) it appears to be a reasonable certainty that the scholarship grant recipient does not intend to practice as required by statute, rule, and the grant agreement in an underserved area in the state.

(7) Upon completion of schooling and required postgraduate training, the scholarship grant recipient shall find employment at an approved site.

(8) A scholarship grant recipient must obtain department approval before beginning the service obligation at an approved site.

(9) A scholarship grant recipient must obtain department approval before any change of an approved site where the recipient fulfills the service obligation.

(10) If there is no available approved site upon a scholarship grant recipient's graduation, the recipient shall repay the scholarship grant amount as provided by the scholarship grant agreement.

(11) A scholarship grant recipient shall obtain an unrestricted license to practice in the state and begin practicing for the agreed upon period at an approved site within three months of completion of postgraduate training.

R434-40-7. Full- and Part-Time Equivalency Provisions for Recipients.

(1) A recipient's total assistance is based on the level of full-time equivalency that the recipient agrees to work.

(2) For full-time recipients providing primary medical care services, each recipient shall work a minimum of 40 hours per week for at least 45 weeks per service year.

(a) A recipient shall spend at least 32 hours per week providing patient care at an approved site.

(i) Of the minimum 32 hours spent providing patient care, a recipient shall spend no more than eight hours per week in a teaching capacity.

(ii) A recipient providing patient care while a student or resident observes shall count that time as patient care, not as time spent in a teaching capacity.

(b) A recipient may spend the remaining eight hours per week providing patient care in an alternative approved site, including:

(i) in a hospital;

(ii) in a nursing home;

(iii) in a shelter; or

(iv) performing clinical-related administrative activities.

(3) For part-time recipients providing primary medical care services, each recipient shall work a minimum of 20 hours per week for at least 45 weeks per service year.

(a) A recipient shall spend at least 16 hours per week providing patient care at an approved service site.

- (i) Of the minimum 16 hours spent providing patient care, a recipient shall spend no more than four hours per week in a teaching capacity.
- (ii) A recipient providing patient care while a student or resident observes shall count the time as patient care, not as time spent in a teaching capacity.
- (b) A recipient may spend the remaining four hours per week providing patient care in an alternative approved site, including:
 - (i) in a hospital;
 - (ii) in a nursing home;
 - (iii) in a shelter; or
 - (iv) performing clinical-related administrative activities.
- (4) For full-time recipients providing mental health services, each recipient shall work a minimum of 40 hours per week for at least 45 weeks per service year.
 - (a) A recipient shall spend at least 20 hours per week providing patient care at an approved service site.
 - (i) Of the minimum 20 hours spent providing patient care, a recipient shall spend no more than eight hours per week in a teaching capacity, performing clinical-related administrative activities, or in an alternative approved site, including:
 - (A) in a hospital;
 - (B) in a nursing home; and
 - (C) in a shelter as directed by the approved site.
 - (ii) A recipient providing patient care while a student or resident observes shall count the time as patient care, not as time spent in a teaching capacity.
 - (b) A recipient shall spend the remaining 20 hours per week providing patient care at an approved service site or performing service as a behavioral or mental health professional in a school or other community-based setting.
- (5) For part-time recipients providing mental health services, each recipient shall work a minimum of 20 hours per week for at least 45 weeks a year.
 - (a) A recipient shall spend at least 10 hours per week providing patient care at an approved service site.
 - (i) Of the minimum 10 hours spent providing patient care, a recipient shall spend no more than four hours per week in a teaching capacity, performing clinical-related administrative activities, or in an alternative approved site, including:
 - (A) a hospital;
 - (B) a nursing home; and
 - (C) a shelter as directed by the approved site.
 - (ii) A recipient providing patient care while a student or resident observes shall count the time as patient care, not as time spent in a teaching capacity.
 - (b) A recipient shall spend the remaining 10 hours per week providing patient care at an approved site or, when directed by the approved site, performing service as a behavioral or mental health professional in a school or other community-based setting.
- (6) A full-time loan repayment grant recipient whose professional responsibilities change such that the recipient no longer meets the criteria for a full-time award may receive part-time award funding for the rest of the service obligation, if the recipient meets the criteria for a part-time award and the recipient's site approves the new funding amount.
- (7) A scholarship grant recipient shall work full-time, as defined by the scholarship grant recipient's employer and as specified in the scholarship grant with the department.
- (8) The department may approve a full-time equivalency of less than 40 hours per week if the applicant's employer can demonstrate that performing less than 40 hours per week at the approved site combined with other activities, such as on-call service, is equivalent to a 40-hour work week.

R434-40-8. Approved Site Determination.

- (1) The department shall approve a site based on a site-submitted application.
- (2) To determine an approved site that is not a nursing school, the department may use criteria, including:
 - (a) the percentage of the population with an income under 200% of the federal poverty level;
 - (b) the percentage of the geriatric population;
 - (c) the percentage of the population under 18 years of age;
 - (d) the distance to the nearest geriatric, health care, or mental health professional and any barrier to accessing those services;
 - (e) the ability of the site to provide support facilities and services required for an applicant to practice in the applicant's specialty;
 - (f) the financial stability of the site;
 - (g) the percent of uninsured patients served or the percent of patients publicly insured by government programs, including Medicaid, Medicare, and CHIP;
 - (h) the site's policy and practice to provide care regardless of a patient's ability to pay; and
 - (i) any other information provided by the site demonstrating support for the program's purposes as described in Section 26B-4-702.
- (3) To determine an approved nursing school site, the department may use criteria, including:
 - (a) a demonstrated shortage of nursing educator faculty;
 - (b) the number of degrees sought by students;
 - (c) the number of students denied for each degree sought;

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- (d) the residency of students;
- (e) the ability of the nursing school to provide support facilities and services to train for the requested position;
- (f) the faculty to student ratio, including the ratio of clinical and classroom instructors;
- (g) the average class size for each degree offered by the school;
- (h) the school's plans to expand enrollment;
- ~~[(i) the diversity of students;~~
- ~~—]~~[(j)] the current and projected staffing for the type of instructor requested;
- ~~[(k)]~~ the sources and stability of funding to hire and support the prospective instructor;
- ~~[(l)]~~ the distance to the nearest nursing school; and
- ~~[(m)]~~ any other criteria that the site can provide to demonstrate support to the program as described in Section 26B-4-702.
- (4) The department may give preference to sites that provide letters of support from the area served by the prospective employer, including letters from any:
 - (a) business leader;
 - (b) citizen;
 - (c) county or civic leader;
 - (d) hospital administrator;
 - (e) local chamber of commerce;
 - (f) local health department; and
 - (g) practicing health care professional.
- (5) The department may give preference to a site:
 - (a) located in a service area designated by the United States Health Resources and Services Administration as having a health care professional shortage; and
 - (b) that requests one of the following medical specialties:
 - (i) family practice;
 - (ii) internal medicine;
 - (iii) obstetrics and gynecology;
 - (iv) pediatrics;
 - (v) mental health;
 - (vi) dental hygiene; or
 - (vii) forensic pathology.
- (6) To be considered for approval, a site must offer a salary and benefit package competitive with salary and benefit packages offered to similar healthcare professionals within the service area.
- (7) Each approved site employing a loan repayment grant recipient shall provide education loan repayment assistance to the recipient:
 - (a) in an amount equal to 20% of the loan repayment grant amount awarded by the department to the recipient; and
 - (b) in accordance with the schedule provided in the site's written agreement with the recipient.

R434-40-9. Loan Repayment Grant Eligibility and Selection.

- (1) In selecting a recipient for a loan repayment grant award, the department shall evaluate each applicant based on:
 - (a) the applicant's:
 - (i) ability and willingness to provide care, regardless of a patient's ability to pay;
 - (ii) academic standing;
 - (iii) achieving an early match with an approved site;
 - (iv) board certification or eligibility;
 - (v) financial need;
 - (vi) peer recommendations;
 - (vii) postgraduate training achievements;
 - (viii) prior professional or personal experience serving in an underserved area;
 - (ix) willingness to serve patients who are without insurance or who are insured by government programs, such as Medicaid, Medicare, and CHIP; and
 - (x) other demonstrable facts that establish the applicant's professional competence or conduct;
- (b) the applicant's commitment to serve in an underserved area, demonstrated through:
 - (i) work or volunteer experience at:
 - (A) a community or migrant health center;
 - (B) a geriatric clinic;
 - (C) a homeless shelter;
 - (D) a public health department clinic; or
 - (E) any other service commitment to a medically underserved population;
 - (ii) work or educational experience with a geriatric or medically underserved population through AmeriCorps VISTA, the Peace Corps, or a similar volunteer agency;

- (iii) ~~any~~ language skills essential for the provision of health care services to a medically underserved population;
- (iv) any other demonstrable fact or experience that establishes the applicant's commitment to serve in an underserved area; and
- (v) the availability of the applicant to begin service, with the department giving greater consideration to an applicant available for earlier service dates; and
- (c) the approved site's need for a healthcare professional who has training in the applicant's health care specialty;
- (2) To be considered eligible for a loan repayment grant, an applicant must:
 - (a) apply for the grant within 18 months of the start of an applicant's employment at an approved site; and
 - (b) be a United States citizen or permanent resident.
- (3) The applicant shall submit a written commitment from the health care facility employing the applicant that the facility will provide the employer contribution in an amount equal to 20% of the loan repayment grant amount awarded by the department.
- (4) The department may give priority to an applicant working at a publicly funded site.

R434-40-10. Scholarship Grant Eligibility and Selection.

- (1) In selecting a recipient for a scholarship grant, the department shall evaluate each applicant based on:
 - (a) the applicant's:
 - (i) academic ability as demonstrated by official transcripts and school admission test scores;
 - (ii) educational, personal, and professional references demonstrating the applicant's good character and potential to successfully complete school;
 - (iii) projected educational expenses; and
 - (iv) scholarship application essay;
 - (b) the applicant's commitment to serve in an underserved area, as demonstrated through:
 - (i) work or volunteer service in an underserved area or a service commitment to a medically underserved population;
 - (ii) work or educational experience with a medically underserved population through AmeriCorps VISTA, the Peace Corps, or a similar volunteer agency;
 - (iii) ~~any~~ language skills that are essential for the provision of health care services to a medically underserved population; and
 - (iv) any other demonstrable fact or experience that establishes the applicant's commitment to the medically underserved;
 - (c) evidence that an accredited school has accepted the applicant or that the applicant currently attends an accredited school; and
 - (d) evidence that the applicant has a license in good standing to practice under:
 - (i) Title 58, Chapter 31b, Nurse Practice Act; or
 - (ii) Title 58, Chapter 44a, Nurse Midwife Practice Act.
- (2) To be considered eligible for a scholarship grant, an applicant must be a United States citizen or permanent resident.
- (3) In selecting a scholarship grant recipient, the department may give preference to an applicant who agrees to serve for a greater length of time.

R434-40-11. Loan Repayment and Scholarship Grant Service Obligation.

- (1) Before being awarded a grant under Section 26B-4-702, an applicant selected by the department for an award must enter into a grant agreement with the department.
- (2) The grant agreement shall include necessary conditions to carry out the purposes of Section 26B-4-702 and this rule.
- (3) In exchange for financial assistance under Section 26B-4-702, a recipient shall serve:
 - (a) in an underserved area at an approved site; and
 - (b) for a period:
 - (i) established when the grant is awarded; and
 - (ii) that is at least three years.
- (4) The amount owed for the awarded grant retires upon completion of service at an approved site as required by the grant agreement.
- (5) Periods of internship, preceptorship, or other clinical training may not satisfy the service obligation under Section 26B-4-702.
- (6) A scholarship grant recipient shall:
 - (a) be a full-time matriculated student and meet the school's requirements to continue in the program and receive an advanced degree within the time specified in the scholarship grant agreement, unless extended pursuant to Section R434-40-14;
 - (b) provide to the department documented evidence of an approved site's intent to hire the recipient within three months before and one month after graduation or completion of postgraduate training;
 - (c) upon completion of schooling or postgraduate training, find employment at an approved site;
 - (d) obtain an unrestricted license to practice in Utah before beginning to fulfill the service obligation at the approved site;
 - (e) obtain approval from the department before beginning to fulfill the recipient's service obligation at an approved site;
 - (f) begin employment at the approved site within three months of graduation or completion of postgraduate training; and
 - (g) obtain department approval before any change to the approved site where the recipient fulfills the service obligation.

R434-40-12. Loan Repayment Grant Breach, Repayment, and Penalties.

The loan repayment grant agreement shall explain the repayment requirements and penalties for a recipient who fails to complete the service obligation.

R434-40-13. Scholarship Grant Breach, Repayment, and Penalties.

The scholarship grant agreement shall explain the repayment requirements and penalties for a recipient who fails to complete the service obligation.

R434-40-14. Extension of Loan Repayment and Scholarship Grants.

(1) The department may extend the period within which the loan repayment grant recipient shall complete the service obligation at an approved site.

(a) A loan repayment grant recipient may apply to extend the grant agreement by one year if the recipient:

(i) has signed a grant agreement for three years; and

(ii) has started working at the approved site to fulfill the service obligation.

(b) A loan repayment grant recipient who wants to extend the loan repayment grant period shall:

(i) inform the department in writing of the recipient's interest in extending the grant agreement at least six months before the end of the current service obligation; and

(ii) submit a written commitment from the health care facility employing the recipient that the facility will provide the employer contribution in an amount equal to 20% of the loan repayment grant amount awarded by the department to the recipient for the extension period.

(2) The department may extend the period within which the scholarship grant recipient shall complete the recipient's education at an approved site:

(a) if the scholarship grant recipient has a serious illness;

(b) if the military activates the scholarship grant recipient; or

(c) for other good cause shown, as determined by the department.

R434-40-15. Release of Recipient from Service Obligation.

(1) The department may cancel or release, partially or fully, a recipient from the service obligation under the grant agreement without penalty:

(a) if the recipient fulfills the service obligation;

(b) if the recipient fails to meet the conditions of the award or if it reasonably appears the recipient will not meet the loan repayment or scholarship grant conditions;

(c) if, due to permanent disability that prevents the recipient from performing any work for remuneration or profit, the recipient cannot:

(i) fulfill the service obligation; or

(ii) complete the required schooling;

(d) if the recipient dies;

(e) if the recipient experiences extreme hardship, including if a family member for which the recipient is the principal caregiver has a life-threatening chronic illness;

(f) if there are no funds appropriated by the Legislature or by the federal government for the program; or

(f)g) for other good cause shown, as solely determined by the department.

(2) The department may develop alternative service obligation criteria that a loan repayment grant or scholarship grant recipient may use to fulfill the service obligation if the recipient cannot fulfill the service obligation at an approved site due to reasons beyond the recipient's control.

R434-40-16. Reporting Requirements of Recipients.

The department may require a recipient to provide information regarding:

(1) academic performance;

(2) commitment to underserved areas;

(3) continuing financial need;

(4) service obligation fulfillment; or

(5) other information reasonably necessary for the administration of the program while the recipient is:

(a) in school;

(b) in postgraduate training; or

(c) completing the service obligation.

R434-40-17. Reporting Requirements of Approved Sites.

The department may require the approved site to provide information regarding:

(1) an award recipient's performance;

(2) commitment to underserved areas;

- (3) service obligation fulfillment; and
- (4) other information reasonably necessary for the administration of the program during the award recipient's service obligation.

KEY: medically underserved, grants, scholarships, Utah Health Care Workforce Advisory Committee

Date of Last Change: 2025

Notice of Continuation: May 6, 2024

Authorizing, and Implemented or Interpreted Law: 26B-1-202; 26B-4-702

End of the Notices of Changes in Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-DAY RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-DAY RULE** including the name of a contact person, justification for filing a **120-DAY RULE**, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **120-DAY RULE** is printed. New text is underlined (example) and text to be deleted is struck out with brackets surrounding the deleted text ([~~example~~]). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (.) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective when filed with the Office of Administrative Rules, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule. Because of its temporary nature, a **120-DAY RULE** is not codified as part of the *Utah Administrative Code*.

The law does not require a public comment period for **120-DAY RULES**. However, when an agency files a **120-DAY RULE**, it may file a **PROPOSED RULE** at the same time, to make the requirements permanent.

Emergency or **120-DAY RULES** are governed by Section 63G-3-304, and Section R15-4-8.

NOTICE OF EMERGENCY (120-DAY) RULE		
Rule or Section Number:	R357-13	Filing ID: 57114
Effective Date:	05/07/2025	

Agency Information

1. Title catchline:	Governor, Economic Opportunity	
Building:	World Trade Center	
Street address:	60 E South Temple, Suite 300	
City, state	Salt Lake City, UT	
Contact persons:		
Name:	Phone:	Email:
Greg Jeffs	801-368-1957	gjeffs@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R357-13. Hotel Convention Center Incentive

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

SB 26 (passed in the 2025 General Session) amends Section 63N-2-512. These changes will align this rule with those amendments. SB 26 (2025) adds the following to Section 63N-2-512:

- 1) "City-wide event" means an event hosted at a convention facility pursuant to a contract by a nonprofit corporation responsible for the promotion of convention business.
- 2) "Qualified losses" means revenue lost by an affected hotel for city-wide events attributable to the qualified hotel room supply being added to the market in the state.
- 3) In accordance with office rules and Subsection (6), the Governor's Office of Economic Opportunity (GOEO) shall annually pay \$2,100,000 from the mitigation fund to affected hotels to mitigate qualified losses.
- 4) Each calendar year, GOEO shall award the available \$2,100,000 to affected hotels proportionally, according to each affected hotel's qualified losses in relation to the total qualified losses suffered collectively by all affected hotels.

4. Summary of the new rule or change:

The changes integrate SB 26's amendments for "city-wide event" and "qualified losses" into this rule. It also adopts calendar year dates. These changes affect how staff of the GOEO perform their duties.

There are also nonsubstantive changes to correct numbering, grammar, and punctuation.

5A) The agency finds that regular rulemaking would:

- ☐ cause an imminent peril to the public health, safety, or welfare;
- ☐ cause an imminent budget reduction because of budget restraints or federal requirements; or
- ☒ place the agency in violation of federal or state law.

B) Specific reasons and justifications for this finding:

SB 26 (2025) has been signed by the Governor and will take effect 05/07/2025. This rule must become effective upon that date in order to be in compliance with the law.

Fiscal Information**6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

No anticipated costs or savings. This rule will not affect state budget as it is implementing Section 63N-2-512 and does not create or reduce any costs associated with Section 63N-2-512. This is because clarifying definitions and specifying time tables does not create costs.

B) Local governments:

No anticipated costs or savings. This rule change will not increase or decrease costs to local governments because it does not require anything of local governments.

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

No anticipated costs or savings. This rule change will not increase or decrease costs to small businesses because it does not require anything of small businesses.

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

No anticipated costs or savings. This rule change will not increase or decrease costs to other persons because it does not require anything of them.

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

No anticipated costs or savings. The affected persons are primarily the staff of the Governor's Office of Economic Opportunity, as these changes affect how they perform their duties. The cost does not change because the change does not increase the amount of duties, it only changes current duties.

F) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

There are no anticipated fiscal impacts. Ryan Starks, Executive Director

Citation Information**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 63N-2-512

Agency Authorization Information

Agency head or designee and title:	Ryan Starks, Executive Director	Date:	04/14/2025
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R357. Governor, Economic Development.**R357-13. Hotel Convention Center Incentive.****R357-13-1. Purpose.**~~[(4)]~~ This rule identifies:

- ~~[(a)]~~1) procedures by which the Governor's Office of Economic Opportunity may enter into an agreement with a qualified hotel owner for the development of a qualified hotel, and authorize and set conditions for a convention incentive;
- ~~[(b)]~~2) minimum criteria for an agreement with a qualified hotel owner;
- ~~[(e)]~~3) roles and responsibilities of the independent review committee;
- ~~[(d)]~~4) procedures for calculating and paying the convention incentive; and
- ~~[(e)]~~5) administrative procedures for the Hotel Impact Mitigation Fund.

R357-13-2. Authority.

~~[(4)]~~ Section 63N-2-509 authorizes the Governor's Office of Economic Opportunity to enact rules to carry out its responsibilities under the Act.

R357-13-3. Definitions.

(1) Unless otherwise specifically defined in this rule, Section 63N-2-502 defines the terms used in this rule.

(2) "Appointing entity" means any of the entities responsible for appointing members to the independent review committee under Section 63N-2-504.

(3) "City-wide events" means an event hosted at a convention facility pursuant to a contract by a nonprofit corporation responsible for the promotion of convention business for the use of at least 100,000 gross square feet in the convention center and 1,500 or more guest rooms.

R357-13-4. Application for Approval of a Qualified Hotel and For Authorization of Incentive.

(1) The Office, with the Board's advice and after considering the recommendations of the independent review committee formed in Section 63N-2-504, may enter into an agreement with a qualified hotel owner or host local government:

- (a) for the development of a qualified hotel; and
- (b) to authorize and set conditions for a convention incentive, to be paid from the convention incentive fund as set forth in Subsection 63B-2-503(5) and under Section 63N-2-505 and this rule.

(2) The initial application to approve the development of a qualified hotel and to authorize and set conditions for an incentive shall include at least the following information:

- (a) identify the hotel property and the hotel owner;
- (b) a proposal for the convention center hotel, including construction time lines and proposed spending over the life of the project;
- (c) include the required endorsement letter from the ~~[(C)]~~ county in which the hotel is located;
- (i) the endorsement letter shall include by reference to or attachment of each of the requirements placed on the hotel by the ~~[(C)]~~ county in relation to the endorsement letter; and
- (ii) the endorsement letter shall include by reference to or by attachment the ~~[(C)]~~ county's expectations regarding compliance with its requirement by the developer or owner, including how compliance with the requirements will be measured and tracked.
- (d) details regarding the capital investment expected, which must be at least \$200,000,000;
- (e) the period ~~[(of time)]~~ for which the qualified hotel owner or host local government expects to request and claim an incentive related to the project, subject to the limitations set forth in the New Convention Facility Development Incentives Act; and
- (f) the maximum amount of incentives that the applicant is requesting, subject to the limitations set forth in Section 63N-2-503.

(3) The Office, with advice of the Board and after considering recommendations of the independent review committee established by Section 63G-2-504, shall review the application and materials and determine whether to enter into an agreement with the qualified hotel, and what conditions to place on the award of an incentive~~[(s)]~~.

- (a) The Office shall review applications and respond within 60 days;

(b) if more information is requested by the Office or the Board, the applicant will have 15 days to provide the additional information, and the Office's decision will be extended by 30 days;

(c) if the Office declines to approve the project, it shall publish a notice of agency action and state specifically the reasons for declining, and what, if anything the applicant can do to cure the defects;

(d) if the Office approves the project the approval shall include the terms, conditions, contingencies, and requirements related to the convention incentive.

(4) If either the qualified hotel owner or the host local government are aggrieved by the notice of agency action in Subsection R357-13-3(3)(c), the entity may seek review by the Executive Director of the Governor's Office of Economic Opportunity, using the procedures set forth in ~~[the Utah Administrative Procedures Act,]~~ Section 63G-4-301.

R357-13-5. Independent Review Committee.

~~[(1)]~~ The independent review committee may:

~~[(a)]~~ 1) make recommendations to the Office regarding appropriate terms and conditions for an agreement with a qualified hotel;

~~[(b)]~~ 2) consult with the Office regarding compliance with the;

~~[(i)]~~ a) conditions, contingencies, and requirements related to the convention incentive:

~~[(ii)]~~ b) proof of new tax revenue to support an application or claim for a convention incentive; and

~~[(iii)]~~ c) proof of reduction of the tax credit by \$1,900,000 for the first two years of the project;

~~[(e)]~~ 3) specify the maximum dollar amount that the incentive recipient may receive for each application; and

~~[(d)]~~ 4) review documentation to ensure that incentives are being used for the purposes set forth in Section 63N-2-513.

R357-13-6. Procedures for Claiming a Convention Incentive.

(1) The applicant for a convention incentive shall be paid in accordance with Section 63N-2-505.

(2) For claims of construction or off-site revenue, each claim shall identify by location, using the nine digit postal code, where the sales and use taxes constituting new tax revenue were paid. For each location identified, the certification shall itemize the amount constituting new tax revenue for each category of sales and use tax identified in Section 63N-2-502.

(3) Once an application and the tax returns referenced in Subsection 63N-2-505(2)(b) are received, the Governor's Office of Economic Opportunity shall have 90 days to review the information and determine whether there is sufficient information to certify the claim for payment.

(4) Any additional information requested by the Office shall be provided within 30 days.

(5) Following review of the information requested and received, the Office shall issue a ~~[N]~~notice of ~~[A]~~agency ~~[A]~~action either approving, modifying, rejecting a claim, or instructing the qualified hotel owner or host local government to resubmit the claim:

(a) timing and amount of payment of an approved claim is subject to the availability of funds in the incentive fund;

(b) if the application is approved and there is sufficient funds in the incentive fund, payments will be made within 30 days of the notice approving the claim; and

(c) an approved amount maybe adjusted for amounts, percentages, or error ratios identified in the report under Subsection (7).

(6) If either the qualified hotel owner or the host local government are aggrieved by the ~~[N]~~notice of ~~[A]~~agency ~~[A]~~action, the entity may seek review by the Executive Director of the Governor's Office of Economic Opportunity, using the procedures set forth in ~~[the Utah Administrative Procedures Act,]~~ Section 63G-4-301.

(7) The entity claiming a convention incentive shall submit a report from an independent certified public accountant that uses the following procedures:

(a) detail from the applicant's sales and use account for the period being reviewed on a form prescribed by the Office;

(b) testing a sample of transactions from the applicant's sales and use account and verifying the vendor, payment amount and sales and use tax paid; and

(c) report the ratio of the error found in the sample to the total amount for the period being reviewed.

R357-13-7. Incremental Property Tax Revenue.

~~[(1)]~~ The Office shall define in an agreement with the qualified hotel how and under what circumstances a county in which a qualified hotel is located shall ~~[retain]~~keep incremental property tax revenue during the eligibility period and that provides assurances that incremental property tax revenue may only be used for the purposes set forth in Subsection 63N-2-508(3).

R357-13-8. Procedures for the Administration of the Hotel Impact Mitigation Fund.

(1) Notification of the open mitigation and list of city-wide events for the claim period application period will be posted on the GOEO website.

(2) An applicant who fails to enter into a contract or apply for mitigation during the open application period, in a format and method provided by the ~~[(a)]~~Office, will not be eligible for mitigation funds during that ~~[fiscal]~~year.

(3) For four consecutive years, the Hotel Impact Mitigation Fund will accept applications per Subsection 63N-2-512(~~6~~~~(5)~~~~(a)~~~~(ii)~~). An applicant must submit a new claim application each year, and the application must reflect the qualified~~[direct]~~ losses for city-wide events for January~~[October]~~ 1st to December 31st~~[September 30th]~~ of the year claimed.

(4) To be determined eligible for reimbursement from the Hotel Impact Mitigation Fund, an applicant shall demonstrate:

(a) that the applicant is a hotel built in the state before July 1, 2014;

(b) that the hotel has experienced qualified~~[a direct]~~ losses as defined in Subsection 63N-2-512(1)(~~d~~~~[b]~~);

(c) that the hotel is located within one mile of the Hyatt Regency Salt Lake City located at 170 South West Temple; and

NOTICES OF 120-DAY (EMERGENCY) RULES

- (d) to show qualified~~[direct]~~ losses, the applicant shall:
- (i) provide the applicant's total average room-night revenue and number of room nights for city-wide events, by year~~[baseline income, by source]~~, between ~~[October]~~January 1, 2017~~[8]~~ and ~~[September 30]~~December 31, 2019. The Office shall calculate the annual average room-night revenue and the annual average number of room nights to establish the baseline;
- (ii) provide ~~[income by source for the October 1st to September]~~average annual room-night revenue and number of room nights for city-wide events of the claiming year
- (iii) attest the information in the application is accurate;
- (iv) that the applicant entered into a contract with the ~~[e]~~Office for the Hotel Impact Mitigation Fund; and
- (v) apply during the open application period as set forth in Subsection (1).
- ~~[(5) The office shall determine if an affected hotel claims are reasonable due to an increase in the supply of hotel rooms attributable to the opening of the Hyatt Regency Salt Lake City and may deny or reduce a claim for the following reasons:~~
- ~~(a) an affected hotel reduces the number of rooms available in a claim year;~~
- ~~(b) an affected hotel reduces or suspends operations of services that provides income to the hotel; and~~
- ~~(c) any other reduction or suspension of operations that would differ from the continuance of operations from the baseline period, as determined by the office.~~
- ~~(6) The Board shall annually pay up to \$2,100,000 of money in the mitigation fund:~~
- ~~(a) to affected hotels, on a pro rata basis, based on the amount of direct loss claimed and verified by the Office; and~~
- ~~(b) the processing of applications will be based on the unencumbered money available in the Hotel Impact Mitigation Fund for the fiscal year.~~
- ~~(7) The Board shall make any required payment within 90 days of the end of the application period, unless an applicant seeks agency review or good cause exists to extend the time.]~~
- ~~(5)~~(8) If an application for reimbursement by the Hotel Impact Mitigation Fund is denied, the entity may seek review by the Executive Director of the Governor's Office of Economic Opportunity, using the procedures set forth in ~~[the Utah Administrative Procedures Act,]~~Section 63G-4-301. Within five business days of receiving notice from the Office that the application has been denied, the applicant must file a review.

KEY: hotel convention center incentives, tax credits

Date of Last Change: 2025~~[January 25, 2024]~~

Notice of Continuation: March 9, 2021

Authorizing, and Implemented or Interpreted Law: 63N-2-509

End of the Notices of 120-Day (Emergency) Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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

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

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

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R414-40	Filing ID: 56915
Effective Date:	04/23/2025	

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:	288 N 1460 W	
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 catchline:
R414-40. Private Duty Nursing Services
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 26B-3-108 requires the Department of Health and Human Services (Department) to implement Medicaid through administrative rules, and Section 26B-1-213 grants the Department the authority to adopt, amend, or rescind these rules.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department has not received any written comments in support of or opposition to this rule since its last five-year review.

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

The Department has determined that this rule is necessary because it sets forth requirements for eligibility and program access to private duty nursing services, specifies coverage and limitations, and includes provisions for reimbursement. Therefore, this rule should be continued.

As the Department did not receive any comments in opposition to this rule, it did not respond to any such comments.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	04/23/2025
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R434-100	Filing ID: 56078
Effective Date:	04/23/2025	

Agency Information

Agency Information:		
1. Title catchline:	Health and Human Services, Clinical Services, Primary Care and Rural Health	
Building:	Multi-Agency State Office Building	
Street address:	195 N 1950 W	
City, state	Salt Lake City, UT	
Mailing address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84119	
Contact persons:		
Name:	Phone:	Email:
Marc Watterson	801 647-1490	marcwatterson@utah.gov
Anna West	801 231 3044	awest@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R434-100. Physician Visa Waivers
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Under 8 USC 1184, each state may address physician shortages by recommending 30 international physicians to the U.S. Department of State for a waiver of the requirement to return to their home country for 2 years.
This rule establishes criteria to determine whether it is in the public interest to request a J-1 visa waiver for an applicant; establishes procedures for the submission, review, and disposition of applications; and is adopted in accordance with Section 26B-1-202.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There have been no written comments in support or opposition 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:

This rule is necessary because it meets the requirements of the 8 USC 1184. Funding is allocated under HRSA's State Primary Care Grants to promote, review and process applications. This rule has facilitated a well-administered program, helping to address provider shortages in Utah.

These waivers are called State Conrad 30/J-1 visa waivers and are important to increase the number of qualified, expert physicians serving the underserved in Utah. Therefore, this rule should be continued.

As there have been no comments in opposition to this rule, the Department of Health and Human Services has not responded to any such comments.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	04/22/2025
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R590-199	Filing ID: 54521
Effective Date:	04/26/2025	

Agency Information

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

General Information

2. Rule catchline:
R590-199. Plan of Orderly Withdrawal Rule Relating to Health Benefit Plans
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, Insurance Code.
Section 31A-4-115 authorizes the insurance commissioner to write rules to implement this section regarding an insurer's plan of orderly withdrawal.
This rule sets the information that is to be included in an insurer's withdrawal plan and the way in which it is to be implemented, including to whom and when notification of the withdrawal is to be sent.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department has received no written comments regarding this rule during the past five years.

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

This rule requires specific information to be provided to the insurance commissioner for purposes of approving a plan of orderly withdrawal. This rule is necessary to maintain a health benefit market that is stable, fair, and efficient for individuals and small employers. This rule also promotes an orderly process by which an insurer can elect to non-renew health benefit plan coverages. Therefore, this rule must be continued.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	04/26/2025
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R657-11	Filing ID: 57013
Effective Date:	04/29/2025	

Agency Information

1. Title catchline:	Natural Resources, Wildlife Resources	
Building:	Natural Resources Complex	
Street address:	1594 W North Temple	
City, state:	Salt Lake City, UT 84116	
Mailing Address:	PO Box 146301	
City, state and zip:	Salt Lake City, UT 84114-6301	
Contact persons:		
Name:	Phone:	Email:
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule catchline:
R657-11. Taking Furbearers and Trapping
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Under Sections 23A-2-304 and 23a-2-305, the Wildlife Board and Division of Wildlife Resources (Division) are authorized to provide rules applicable to taking furbearers and trapping.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Division has not received any written comments regarding this rule. Any comments received in opposition to this rule are resolved using existing policies and procedures or the issue is placed on the Regional Advisory Council's and the Wildlife Board's agenda for review and discussion during the process for taking public input.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R657-11 provides the procedures, standards and requirements for taking furbearers and trapping in the state of Utah. The provisions adopted in this rule are effective in providing the standards and requirements for trapping. This rule is necessary for continued success of this program. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Riley Peck, Director	Date:	04/29/2025
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

Rule Number:	R657-24	Filing ID: 55764
Effective Date:	04/29/2025	

Agency Information

1. Title catchline:		Natural Resources, Wildlife Resources	
Building:		Natural Resources Complex	
Street address:		1594 W North Temple	
City, state		Salt Lake City, UT 84116	
Mailing Address:		PO Box 146301	
City, state and zip:		Salt Lake City, UT 84114-6301	
Contact persons:			
Name:		Phone:	Email:
Staci Coons		801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the persons listed above.			

General Information

2. Rule catchline:
R657-24. Compensation for Mountain Lion, Bear, Wolf or Eagle Damage.
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Under Section 23A-8-201, the Wildlife Board and Division of Wildlife Resources (Division) are authorized to provide rules applicable for obtaining compensation for damages to livestock by mountain lion, black bear, wolf, or an eagle.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Division has not received any written comments regarding this rule. Any comments received in opposition to this rule are resolved using existing policies and procedures or the issue is placed on the Regional Advisory Council's and the Wildlife Board's agenda for review and discussion during the process for taking public input.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R657-24 provides the procedures, standards and requirements and limits for obtaining compensation for damages to livestock by mountain lion, black bear, wolf, or an eagle. The provisions adopted in this rule are effective in providing the compensation and aiding livestock producers. This rule is necessary for continued success of this program. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Riley Peck, Director	Date:	04/29/2025
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NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	R765-611	Filing ID: 56230
Effective Date:	04/21/2025	

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 catchline:
R765-611. Veterans Tuition Gap Program
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This administrative rule is enacted under Section 53B-13b-104 which authorizes the Utah Board of Higher Education to create guidelines for the Veterans Tuition Gap Program.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No 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:
This administrative rule is necessary in its current form as there have been no comments in opposition to the rule. Requirements in Section 53B-13b-104 support this administrative rule. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Alison Adams, Board Secretary and Designee	Date:	04/21/2025
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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.

Education

Administration

No. 57071 (Amendment) R277-113: LEA Fiscal and Auditing Policies

Published: 04/01/2025

Effective: 05/08/2025

No. 57072 (Amendment) R277-304: Teacher Preparation Programs

Published: 04/01/2025

Effective: 05/08/2025

No. 57073 (Amendment) R277-407: School Fees

Published: 04/01/2025

Effective: 05/08/2025

No. 57074 (Amendment) R277-417: Prohibiting LEAs and Third Party Providers from Offering Incentives or Disbursement for Enrollment or Participation

Published: 04/01/2025

Effective: 05/08/2025

No. 57075 (Amendment) R277-714: Unsafe School Choice Option

Published: 04/01/2025

Effective: 05/08/2025

Governor

Criminal and Juvenile Justice (State Commission on)

No. 57029 (Repeal and Reenact) R356-2: Judicial Nominating Commissions

Published: 02/15/2025

Effective: 04/15/2025

Health and Human Services

Administration

No. 56883 (Amendment) R380-600: Licensing General Provisions-Enforcement

Published: 11/15/2024

Effective: 05/08/2025

No. 56883 (Change in Proposed Rule) R380-600: Licensing General Provisions-Enforcement

Published: 04/01/2025

Effective: 05/08/2025

NOTICES OF RULE EFFECTIVE DATES

Child Care Center Licensing

No. 56910 (Repeal and Reenact) R381-40: Commercial Preschool Programs

Published: 11/15/2024

Effective: 05/08/2025

No. 56910 (Change in Proposed Rule) R381-40: Commercial Preschool Programs

Published: 04/01/2025

Effective: 05/08/2025

No. 56911 (Repeal and Reenact) R381-60: Hourly Child Care Centers

Published: 11/15/2024

Effective: 05/08/2025

No. 56911 (Change in Proposed Rule) R381-60: Hourly Child Care Centers

Published: 04/01/2025

Effective: 05/08/2025

No. 56885 (Repeal and Reenact) R381-70: Out-of-School-Time Child Care Programs

Published: 11/15/2024

Effective: 05/08/2025

No. 56885 (Change in Proposed Rule) R381-70: Out-of-School-Time Child Care Programs

Published: 04/01/2025

Effective: 05/08/2025

No. 56903 (Repeal and Reenact) R381-100: Child Care Centers

Published: 11/15/2024

Effective: 05/08/2025

No. 56903 (Change in Proposed Rule) R381-100: Child Care Centers

Published: 04/01/2025

Effective: 05/08/2025

Integrated Healthcare

No. 57068 (Amendment) R414-507: Ground Ambulance Service Provider Assessments

Published: 04/01/2025

Effective: 05/08/2025

Residential Child Care Licensing

No. 56909 (Repeal and Reenact) R430-8: Exemptions From Child Care Licensing

Published: 11/15/2024

Effective: 05/08/2025

No. 56909 (Change in Proposed Rule) R430-8: Exemptions From Child Care Licensing

Published: 04/01/2025

Effective: 05/08/2025

No. 56908 (Repeal and Reenact) R430-50: Residential Certificate Child Care

Published: 11/15/2024

Effective: 05/08/2025

No. 56908 (Change in Proposed Rule) R430-50: Residential Certificate Child Care

Published: 04/01/2025

Effective: 05/08/2025

No. 56906 (Repeal and Reenact) R430-90: Licensed Family Child Care

Published: 11/15/2024

Effective: 05/08/2025

No. 56906 (Change in Proposed Rule) R430-90: Licensed Family Child Care

Published: 04/01/2025

Effective: 05/08/2025

Health Care Facility Licensing

No. 56889 (Repeal and Reenact) R432-45: Nurse Aide Training and Competency Evaluation Program

Published: 11/15/2024

Effective: 05/08/2025

No. 56889 (Change in Proposed Rule) R432-45: Nurse Aide Training and Competency Evaluation Program

Published: 04/01/2025

Effective: 05/08/2025

Human Services Program Licensing

No. 57032 (Amendment) R501-1: Residential Program Additional Facilities and Safety Requirements

Published: 03/01/2025

Effective: 04/24/2025

No. 57067 (Repeal) R501-3: Inspection and Emergency Enforcement

Published: 04/01/2025

Effective: 05/08/2025

Higher Education (Utah Board of)

Administration

No. 56230 (Amendment) R765-611: Veterans Tuition Gap Program

Published: 01/01/2024

Effective: 04/21/2025

Pardons (Board of)

Administration

No. 57053 (Amendment) R671-311: Special Attention Reviews, Hearings, and Decisions

Published: 03/15/2025

Effective: 04/22/2025

No. 57054 (Amendment) R671-522: Continuances Due to Pending Criminal Charges

Published: 03/15/2025

Effective: 04/22/2025

Transportation

Program Development

No. 57055 (Repeal) R926-8: Guidelines for Partnering with Local Governments

Published: 04/01/2025

Effective: 05/12/2025

Transportation Commission

Administration

No. 57056 (New Rule) R940-11: Guidelines for Partnering with Local Governments

Published: 03/15/2025

Effective: 05/12/2025

End of the Notices of Rule Effective Dates Section