

# 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 Administrative Services, produces the *Bulletin* under authority of Section 63G-3-402.

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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.

- (d) financial incentive plan that includes:
- (i) budget of the proposed plan; and
- (ii) timeline that establishes the funds will be expended prior to December 30, 2020.

**R357-34-105. Program Requirements.**

- (1) The office will not issue a grant until all required information and documentation is submitted and approved, as determined by the office. Only complete applications will be considered submitted.
- (2) Grant award shall not exceed \$50,000.
- (3) An awardee shall submit only one application under the program.
- (4) An awardee shall follow best practices to protect the health and safety of employees and customers.
- (5) An award may be denied or reduced if the financial incentive proposed by the applicant has a limited customer reach or otherwise insufficiently incentivizes the customer, as reasonably determined by the office.
- (6) An awardee shall use the grant funds to offset the economic impact of COVID-19 and will expend all funds on or before December 30, 2020.
- (7) An awardee shall provide the financial incentive to the customer on or before December 30, 2020 and the customer may redeem the financial incentive any time up to and including June 30, 2021.
- (8) An awardee shall submit to audits and information requests as reasonably requested by GOED or its designee.

**KEY: Safe in Utah, small business, COVID-19 assistance**  
**Date of Enactment or Last Substantive Amendment: July 30, 2020**  
**Authorizing, and Implemented or Interpreted Law: 63N-15-202**

<b>NOTICE OF EMERGENCY (120-DAY) RULE</b>		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R930-5-8</b>	<b>Filing No. 52999</b>

**Agency Information**

<b>1. Department:</b>	Transportation	
<b>Agency:</b>	Preconstruction	
<b>Room no.:</b>	Administrative Suite, 1st Floor	
<b>Building:</b>	Calvin Rampton	
<b>Street address:</b>	4501 S 2700 W	
<b>City, state, zip:</b>	Taylorsville, UT 84129	
<b>Mailing address:</b>	PO Box 148455	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-8455	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Linda Hull	801-965-4253	lhull@utah.gov
James Palmer	801-965-4197	jimpalmer@agutah.gov

Lori Edwards	801-965-4048	loriedwards@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R930-5-8. Maintenance
<b>3. Effective Date:</b>
07/31/2020
<b>4. Purpose of the new rule or reason for the change:</b>
This emergency rule change is needed to clarify the Department of Transportation's (Department) intent when it originally promulgated this rule.
<b>5. Summary of the new rule or change:</b>
Subsection R930-5-8(1) is changing to clarify that the purpose of Section R930-5-8 is to assign responsibility for maintenance of railroad crossings through state owned right of way as described in Section R930-5-8, unless a prior signed written agreement to the contrary applies. This change also clarifies the Department's original intent was that "responsibility" includes the obligation to perform and pay for the maintenance.
<b>6. Regular rulemaking would:</b>
<input checked="" type="checkbox"/> cause an imminent peril to the public health, safety, or welfare;
<input type="checkbox"/> cause an imminent budget reduction because of budget restraints or federal requirements; or
<input type="checkbox"/> place the agency in violation of federal or state law.
<b>Specific reason and justification:</b>
A dispute exists over interpretation of this rule that will lead to delay in a planned construction project. The project in question is for the purpose of improving safety at an intersection on a state road and a railroad crossing. A delay in the project will create an imminent peril to the public health, safety, or welfare at the intersection according to the Logan City Safety Manager.

**Fiscal Information**

<b>7. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The Department anticipates this rule change will lead to a savings to the state budget because it will avoid a costly legal dispute.

<b>B) Local governments:</b>
This change may lead to savings to local governments by avoiding current and possible future disputes over maintenance costs at railroad crossings.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
This change may lead to savings to small businesses by avoiding unnecessary delays in maintenance and construction projects related to railroad crossings through state owned right of way.
<b>D) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):
The Department does not anticipate any costs or savings to persons other than small businesses, non-small businesses, state, or local government entities because the change does not apply to persons other than railroads that own tracks that cross through highway right of way.
<b>8. Compliance costs for affected persons:</b>
This change will not lead to costs or savings to affected persons because this change clarifies the Department's intent and does not change anything.
<b>9. A) Comments by the department head on the fiscal impact this rule may have on businesses:</b>
This change will not have a fiscal impact on businesses in general.
<b>B) Name and title of department head commenting on the fiscal impacts:</b>
Carlos M. Braceras, Executive Director

**Citation Information**

<b>10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):</b>		
Section 54-4-15	Section 41-6a-1205	Section 72-1-201
Section 54-4-14		

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Carlos M. Braceras, Executive Director	<b>Date:</b>	07/29/2020
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**R930. Transportation, Preconstruction.**

**R930-5. Establishment and Regulation of At-Grade Railroad Crossings.**

**R930-5-8. Maintenance.**

(1) Responsibility for maintenance is as described in this section unless a ~~separate~~ prior signed written agreement applies. Responsibility means the obligation to perform and pay for the maintenance.

(a) The Railroad is responsible for the maintenance of all Railroad Passive Warning Devices and Active Warning Devices within the Railroad right-of-way.

(b) If the Railroad has a property interest in the right-of-way, the Railroad is responsible for the maintenance of Crossing material within the Railroad right-of-way and two feet beyond each outside rail for Crossings without concrete crossing panels or edge of concrete crossing panel.

(c) On a temporary Highway Detour Crossing, the Railroad shall be responsible for the maintenance of pavement, Active Warning Devices, and Passive Warning Devices within the Railroad right-of-way at expense of the Highway Authority.

(d) When the Railroad alters the railway due to track and ballast maintenance, the Railroad shall coordinate their work with the Highway Authority so the pavement approaches can be adjusted to provide a smooth and level Crossing surface.

(e) When the Highway Authority changes the Highway profile, through construction or maintenance activities, the Highway Authority shall coordinate their work with the Railroad so the tracks can be adjusted to provide as smooth and level a Crossing surface as possible.

(f) Where a Highway structure overpasses a Railroad, the Highway Authority is responsible for the maintenance of the entire structure and its approaches.

(g) Where a Highway underpasses a Railroad and the Railroad owns the right-of-way in fee title, the Highway Authority is responsible for the maintenance of the Highway and the entire structure below and including the deck plate, girders, handrail, and parapets. The Railroad is responsible for the maintenance of the ballast, ties, rails and any portion of the supporting structure above the top of the ballast deck plate between parapets.

(i) If the Highway Authority owns the right-of-way in fee title, the Railroad is responsible for the maintenance of the entire structure unless a ~~separate~~ prior signed written agreement applies.

(ii) Cost of repairing damages to a Highway or a Highway structure, occasioned by collision, equipment failure, or derailment of the Railroad's equipment shall be borne by the Railroad.

(h) Responsibility for maintenance of private industrial trackage not owned by a Railroad that crosses a Highway shall be as follows:

(i) When a facility, plant, or property owner receives goods and services from a Railroad over private industrial trackage that crosses a Highway, maintenance of the Crossing shall be the responsibility of the industry owning the trackage, or as agreed to by the parties.

(ii) When the Crossing becomes a safety hazard to vehicles and is not maintained, the Department and/or the Railroad shipping the goods and services shall notify the industry owning the trackage in writing to maintain or replace the Crossing material.

(iii) If the industry owning the trackage does not maintain or replace the Crossing material by a specified date, the Department shall order the Railroad to cease and desist operations across the Crossing.

(iv) If the industry owning the trackage does not respond to the order to maintain or replace the Crossing material the Department shall arrange to have the Crossing material replaced and bill the industry owning the trackage for the expenses to repair the trackage.

**KEY: railroad, crossing, transportation, safety**  
**Date of Enactment or Last Substantive Amendment: July 31, 2020**  
**Notice of Continuation: November 2, 2016**  
**Authorizing, and Implemented or Interpreted Law: 41-6a-1205; 54-4-14; 54-4-15; 72-1-201**

**End of the Notices of 120-Day (Emergency) Rules Section**